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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 12**

### **Introduced by Assembly Members Beall and Bass**

(Principal coauthor: Senator Liu)

(Coauthors: Assembly Members Adams, Ammiano, Anderson, Tom Berryhill, Block, Blumenfield, Brownley, Carter, Chesbro, Conway, Coto, Davis, De La Torre, De León, ~~Emmerson~~, Eng, Evans, Fletcher, Galgiani, Gilmore, Hall, Hernandez, Huber, Huffman, Jones, Krekorian, Logue, Ma, Monning, Nestande, Niello, John A. Pérez, Portantino, Salas, Saldaña, Skinner, Smyth, Solorio, Audra Strickland, Swanson, Torlakson, Torrico, Villines, and Yamada)

(Coauthors: Senators Cedillo, Corbett, DeSaulnier, Ducheny, Hancock, Leno, Pavley, Price, ~~Runner~~, Steinberg, ~~Strickland~~, Wiggins, and Yee)

December 1, 2008

An act to amend Section 17552 of the Family Code, to amend Sections 1501.1 and 1505 of, and to add Section 1502.7 to, the Health and Safety Code, and to amend Sections 241.1, 293, 295, 297, 303, 317, 358.1, 360, 361.45, 361.5, 366, 366.21, 366.22, 366.25, 366.3, 366.4, 388, 727.2, 785, 10609.4, 11008.15, 11155.5, 11253, 11363, 11376, 11400, 11401, 11401.1, 11401.4, 11402, 11403.2, 11405, 11450, 11450.16, 11454.5, 11461, 11464, 11465, 11466.23, 11466.24, 13754, 13757, ~~15200~~, 16120, 16123, 16501, 16501.1, 16501.25, 16503, 16504.5, 16507.3, 16507.4, 16507.6, and 16508 of, to amend, repeal, and add Sections 391 and 11403 of, to add Sections 300.3, 366.31, ~~10101.2~~, 11217, 11253.3, 11401.05, and 11402.2 to, to add Article 4.7 (commencing with Section 11385) to Chapter 2 of Part 3 of Division 9 of, to repeal and add Section 11401.5 of, and to repeal and add Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to foster children, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as amended, Beall. California Fostering Connections to Success Act.

(1) Existing law provides for the out-of-home placement of children who are unable to remain in the custody and care of their parent or parents, and provides for a range of child welfare, foster care, and adoption assistance services for which these children may be eligible.

Existing federal law, the Fostering Connections to Success and Increasing Adoptions Act of 2008, revises and expands federal programs and funding for certain foster and adopted children.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care facilities, including facilities that provide care for foster children, by the State Department of Social Services. A violation of these provisions is a misdemeanor.

Existing law authorizes the placement of children with varying designations and varying needs in the same facility under specified circumstances.

This bill would extend these provisions to also include nonminor dependents commencing January 1, 2012. The bill would define the term “nonminor dependent” and related terms for purposes of the bill.

This bill, commencing no later than July 1, 2012, would require the department, in consultation with specified government and other entities,

to revise regulations regarding health and safety standards for licensing foster family homes and community care facilities in which nonminor dependents of the juvenile court are placed under the responsibility of the county welfare or probation department or an Indian tribe that has entered into a specified agreement with the department.

Under existing law, the California Community Care Facilities Act does not apply to designated categories of facilities, including, among others, the home of a relative caregiver or nonrelative extended family member of a child placed by a juvenile court, as specified.

This bill would include, on and after January 1, 2012, a supervised independent living setting, and a ~~THP-Plus-Foster~~ *THP-Plus-Foster Care-Setting placement*, as established by the bill, for a nonminor dependent placed by the juvenile court on the list of facilities to which the act does not apply. *The bill would require the department to convene a workgroup to establish a new rate structure for THP-Plus-Foster Care placements, and would require counties to submit to the department a plan setting forth how the county would provide for the THP-Plus-Foster Care program, as specified. By requiring counties to perform additional duties with respect to implementation of the THP-Plus-Foster Care program, this bill would impose a state-mandated local program.*

(2) Existing law establishes the jurisdiction of the juvenile court, which is permitted to adjudge certain children to be dependents of the court under certain circumstances.

This bill would expand the jurisdiction of the juvenile court, effective January 1, 2012, to include a child who had been previously removed from the custody of his or her parent and placed in foster care, who was also declared a delinquent ward of the court, as specified. The bill would authorize a court to modify an existing order with respect to the delinquent ward under these circumstances and assert dependency jurisdiction, as specified.

Existing law authorizes a juvenile court to retain jurisdiction over any person who is found to be a dependent child of the juvenile court until the ward or dependent child attains 21 years of age.

Existing law places certain minors for whom a guardianship has been established within the jurisdiction of the juvenile court.

This bill would expand the court's jurisdiction to include on and after January 1, 2012, a nonminor dependent who is receiving specified kinship guardian assistance payments.

This bill would extend the court's jurisdiction to a ward who has been placed into foster care or a dependent who reaches the age of majority before jurisdiction is terminated until the nonminor reaches 21 years of age. The bill, commencing January 1, 2012, would allow a nonminor who left foster care at or after the age of majority to petition the court to have dependency or delinquency jurisdiction resumed, in accordance with a provision of existing law. The bill would authorize a local entity to obtain specified background information regarding a nonminor who may be placed in a foster care setting with minor dependent children under these circumstances. By making various conforming changes in provisions relating to the duties of local agency employees in dependency and delinquency proceedings, this bill would create a state-mandated local program.

(3) Existing law authorizes a social worker to place a child whom the court has ordered to be removed from his or her home into one of 7 designated placements, including the home of a noncustodial parent or the approved home of a relative.

This bill would add to this list of approved placements, on and after January 1, 2012, a supervised independent living setting, as defined by the bill, for a nonminor dependent between 18 and 21 years of age.

(4) Existing law authorizes a change in the placement of a child on an emergency basis due to the sudden unavailability of a foster caregiver.

This bill, on and after January 1, 2012, would require, under these emergency circumstances, when a nonminor dependent is placed in the home of a relative or nonrelative, that the home be approved using the health and safety standards established by the department for the placement of nonminor dependents, as required by the bill. The bill would require the department, in consultation with specified stakeholders, to prepare for the implementation of these provisions by publishing all-county letters or similar instructions from the director, pending the adoption of emergency regulations, as specified.

(5) Existing law requires the status of dependent children to be periodically reviewed, and requires the court to consider the safety of the child and make certain determinations.

This bill similarly would require a status review for every nonminor dependent who is in foster care to be conducted pursuant to specified provisions. This bill, commencing January 1, 2012, would require the court to ensure that the child's transitional independent living case plan includes a plan for the child to meet one or more criteria that would allow the child to remain a nonminor dependent, and to ensure that the

child has been informed of his or her right to seek the termination of dependency jurisdiction.

This bill, on and after October 1, 2012, would authorize a court to continue jurisdiction over a nonminor dependent with a permanent plan of long-term foster care, and would designate the responsibilities of the court in this regard.

(6) Existing law establishes procedures for a hearing to terminate the court's jurisdiction over a dependent child who has reached the age of majority.

This bill would delete the existing hearing procedures as of January 1, 2012, and would set forth revised hearing requirements for determining whether to terminate or continue dependency jurisdiction. The bill would require the court to continue dependency jurisdiction for a child participating in certain educational or vocational activities. This bill would impose various duties on county welfare departments in connection with the hearing process, thereby creating a state-mandated local program.

This bill would require a court to authorize a trial period of independence from foster care, as defined, when it terminates dependency jurisdiction over a nonminor dependent youth, as authorized by specified federal law.

(7) Existing law requires the State Department of Social Services to develop statewide standards for the Independent Living Program for emancipated foster youth which is established and funded pursuant to federal law to assist these individuals in making the transition to self-sufficiency. Under existing law, the department is required to develop and adopt emergency regulations that counties are required to meet when administering the program, that are achievable within available resources.

This bill would require the department to develop and adopt the Independent Living Program regulations on or before July 1, 2012, and would specify that the regulations be achievable within both available program resources and available federal funds for case management and case plan review provided for in the federal act. The bill would require the department, by a specified date, to review and develop modifications to the Independent Living Program to also serve the needs of nonminor dependent youth, as specified.

(8) Existing law prohibits benefits under the CalWORKs program from being paid to or on behalf of any child who has attained 18 years

of age, unless the child is engaged in specified educational or training activities.

This bill, on and after January 1, 2012, also would authorize a nonminor dependent, as defined, to receive CalWORKs aid, as specified.

(9) Existing law authorizes a child who is declared a ward or dependent child of the court who is 16 years of age or older, to retain specified cash resources and still remain eligible to receive public social services.

This bill would apply this provision, on and after January 1, 2012, to a current or former dependent child or ward of the court between 18 and 21 years of age, who is participating in a transitional independent living case plan pursuant to the federal act.

(10) Existing law, through the Kinship Guardianship Assistance Payment Program (Kin-GAP), which is a part of the CalWORKs program, provides aid on behalf of eligible children who are placed in the home of a relative caretaker. The program is funded by state and county funding and available federal funds. Existing eligibility requirements for the Kin-GAP Program include a requirement that a child has been living with a relative for at least 12 consecutive months.

This bill would reduce the above requirement to 6 months, consistent with federal law. To the extent that this would increase duties of counties administering the Kin-GAP program, this bill would impose a state-mandated local program.

This bill would revise the Kin-GAP Program, by repealing the existing program and enacting similar provisions, effective on the date that the Director of Social Services executes a declaration, as required by the bill, declaring that increased federal financial participation in the Emergency Contingency Fund for State TANF Programs is no longer available pursuant to the federal American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5), or subsequent federal legislation that maintains or extends increased federal financial participation to provide state-funded assistance for youth not eligible under the federally funded program and would require the state to exercise its option under specified federal law to establish a kinship guardianship assistance payment program, with components as set forth in the bill, for youth eligible for federal financial participation. This bill would require, as a condition of receiving payments under the revised Kin-GAP Program provisions, that a county welfare agency, probation department, or Indian tribe, as applicable, negotiate and enter into a written, binding kinship guardianship assistance agreement with the

relative guardian of an eligible child, as prescribed. The bill also would *specify the state's share of cost for the support and care of children eligible for Kin-GAP benefits. The bill would make related conforming changes.*

This bill, under the revised Kin-GAP Program provisions, also would require a county, at the time of the annual redetermination of state-funded Kin-GAP benefits, to determine whether a child was receiving federal AFDC-FC benefits before receiving Kin-GAP, while a dependent child or ward of the juvenile court. The bill would require the county to reassign these children to the county social worker for information regarding transition to the federal Kin-GAP program.

By increasing county responsibilities this bill would impose a state-mandated local program.

(11) Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds. Under existing law, AFDC-FC benefits are available, with specified exceptions, on behalf of qualified children under 18 years of age. Existing law requires a county to annually redetermine AFDC-FC eligibility, as specified.

This bill would require the department to amend its foster care state plan required under specified federal law, to extend AFDC-FC benefits, commencing January 1, 2012, to specified individuals up to 21 years of age, in accordance with a designated provision of federal law. The bill would repeal the existing annual redetermination requirement.

This bill would extend AFDC-FC benefits to nonminor dependents, as specified, on and after January 1, 2012, including revising AFDC-FC rate provisions to apply to these individuals.

This bill would require an annual review of a child's or nonminor's payment amount, as specified. The bill also would require a county to contribute to the cost of extending aid to eligible nonminor dependents who have reached 18 years of age and who are under the jurisdiction of the county, and to the cost of providing permanent placement services and administering the AFDC-FC program, as specified. The bill would provide that the county's total contribution for these purposes would not exceed the amount of savings realized by the county as a result of the implementation of the federally funded Kin-GAP Program.

By expanding eligibility and duties under the county-administered AFDC-FC program, the bill would impose a State-mandate local program.

~~Existing law continuously appropriates to each county specified sums from the General Fund, to cover a percentage of the nonfederal share of amounts required for the support and care of children receiving aid under various social services programs, including the AFDC-FC program.~~

~~This bill would additionally appropriate 80 percent of the nonfederal share of specified amounts for the support and care of former dependent children who have been made wards of related guardians, in accordance with specified law.~~

(12) Under existing law, in order to be eligible for AFDC-FC benefits, a child must be placed in one of 8 designated placements.

This bill would add to the eligible AFDC-FC placements, with respect to an otherwise eligible youth over 18 years of age, a supervised independent living setting. By increasing county duties in administering the AFDC-FC program, the bill would impose a state-mandated local program.

(13) Under existing law, a minor between 16 and 18 years of age who is eligible for AFDC-FC benefits and who meets other specified requirements is eligible for certain transitional housing placement program services in a participating county.

This bill, commencing January 1, 2012, would make a nonminor dependent who is eligible for AFDC-FC benefits also eligible for transitional housing benefits.

This bill would revise existing provisions relating to the resolution of certain foster care overpayments to apply to Kin-GAP guardian homes and payments on behalf of nonminor dependents residing in supervised independent living settings.

(14) Under existing law, a parent or caretaker relative is ineligible to receive CalWORKs aid when he or she has received aid for a cumulative total of 60 months. Existing law excludes from this calculation months when designated conditions exist.

This bill, commencing January 1, 2012, would additionally exclude from the above calculation months when a recipient is a nonminor dependent participating in educational or training activities, as prescribed.



Moneys from the General Fund are continuously appropriated to pay for a portion of CalWORKs aid grant costs, and for the state's share of AFDC-FC costs.

This bill would provide that no appropriation from the General Fund would be made for the purposes of implementing these provisions.

By increasing duties of counties administering the AFDC-FC program, this bill also would impose a state-mandated local program.

(15) Existing law, the federal Social Security Act, provides for benefits for eligible beneficiaries, including survivorship and disability benefits and Supplemental Security Income (SSI) benefits for, among others, blind and disabled children. The act authorizes a person or entity to be appointed as a representative payee for a beneficiary who cannot manage or direct the management of his or her money. Existing law also provides for State Supplemental Payments (SSP) in supplementation of SSI benefits.

Existing law, the Foster Care Social Security and Supplemental Security Income Assistance Program, requires the county to apply to be appointed representative payee on behalf of a child beneficiary in its custody when no other appropriate party is available to serve.

This bill would additionally require the county, when a child beneficiary reaches 18 years of age and elects to remain in the custody of the county as a nonminor dependent, to provide specified information to the youth regarding the process for becoming his or her own payee, and to assist the youth in this process, unless becoming his or her own payee is not in the youth's best interests, as specified. It would, as part of this process, express the intent of the Legislature that the county ensure that the nonminor receive direct payment of SSI benefits at least one month each year.

Existing law requires every youth who is in foster care and nearing emancipation to be screened by the county for potential eligibility for SSI benefits, as prescribed. Existing law authorizes a county, under certain circumstances, to forgo a youth's federally funded AFDC-FC benefits in the month of application for SSI benefits, and instead to use state resources to fund the placement, in order to ensure that the youth meets all of the SSI eligibility requirements.

This bill would establish similar requirements for a county child welfare agency, with respect to a nonminor dependent who has been approved for SSI payments but is receiving an AFDC-FC or Kin-GAP benefit that includes federal financial participation in an amount that

exceeds the SSI payment, causing the SSI payment to be placed in suspense.

By placing new duties on county child welfare agencies, this bill would impose a state-mandated local program.

(16) Existing law provides for the Adoption Assistance Program (AAP), to be established and administered by the State Department of Social Services or the county, for the purpose of benefiting children residing in foster homes by providing the stability and security of permanent homes. The AAP provides for the payment by the department and counties, of cash assistance to eligible families that adopt eligible children, and bases the amount of the payment on the needs of the child and the resources of the family to meet those needs. Existing law sets forth eligibility requirements for the AAP, including that a child must be under 18 years of age, or under 21 years of age with a mental or physical disability that warrants continued assistance.

This bill would additionally include children under 21 years of age who turned 16 years of age before the adoption assistance agreement became effective, and is involved in designated education or employment activities, or is incapable of engaging in these activities due to a medical condition. Payment of adoption assistance would be available for these individuals commencing January 1, 2012, as long as specified federal funds remain available and the state continues to exercise its option to extend payments up to 21 years of age pursuant to the federal act.

(17) Existing law requires the state, through the department and county welfare departments, to establish and support a public system of statewide child welfare services. Under existing law, the term “child welfare services” includes various services provided on behalf of children alleged to be the victims of child abuse, neglect, or exploitation. Existing law establishes the case plan as the foundation and central unifying tool in the provision of child welfare services.

This bill would revise the definition of child welfare services to include transitional independent living services, as needed in connection with the provision of other permanent placement services. The bill would revise the requirements for the case plan, effective January 1, 2012, with respect to nonminor dependents, to address the developmental needs of young adults, as specified. The bill would also require the case plan to specify why a group home placement, if made, is necessary for the nonminor dependent’s transition to independent living, and would require the nonminor dependent to participate and

develop, and to sign, his or her case plan, commencing January 1, 2012. By increasing the duties of counties in preparing case plans, the bill would impose a state-mandated local program.

This bill would revise the definition of a whole family foster home, to include a home that provides foster care for a nonminor dependent parent and his or her child, for purposes of the AFDC-FC program. Effective January 1, 2012, the bill would require that the same rate be paid for the care and supervision of the child of a nonminor dependent as is paid for the child of a teen parent in a whole family foster home. The bill would make other provisions applicable to a teen parent, for purposes of the child welfare services program, also applicable to certain nonminor dependents living in a whole family foster home.

Existing law limits child welfare services for voluntarily placed children to a period not to exceed 6 consecutive months, as specified.

This bill would, instead, limit the services to a period not to exceed 180 days, and would make conforming changes.

(18) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote:  $\frac{2}{3}$ -majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 “California Fostering Connections to Success Act.”
- 3 SEC. 2. Section 17552 of the Family Code is amended to read:
- 4 17552. (a) The State Department of Social Services, in
- 5 consultation with the Department of Child Support Services, shall
- 6 promulgate regulations by which the county child welfare
- 7 department, in any case of separation or desertion of a parent or
- 8 parents from a child that results in foster care assistance payments
- 9 under Section 11400 of, or CalWORKs payments to a caretaker
- 10 relative of a child who comes within the jurisdiction of the juvenile

1 court under Section 300, 601, or 602 of the Welfare and Institutions  
2 Code, who has been removed from the parental home and placed  
3 with the caretaker relative by court order, and who is under the  
4 supervision of the county child welfare agency or probation  
5 department under Section 11250 of, or Kin-GAP payments under  
6 Article 4.5 (commencing with Section 11360) or Article 4.7  
7 (commencing with Section 11385) of, or aid under subdivision (c)  
8 of Section 10101 of, the Welfare and Institutions Code, shall  
9 determine whether it is in the best interests of the child to have the  
10 case referred to the local child support agency for child support  
11 services. If reunification services are not offered or are terminated,  
12 the case may be referred to the local child support agency, unless  
13 the child's permanent plan is legal guardianship with a relative  
14 who is receiving Kin-GAP and the payment of support by the  
15 parent may compromise the stability of the current placement with  
16 the related guardian. In making the determination, the department  
17 regulations shall provide the factors the county child welfare  
18 department shall consider, including:

19 (1) Whether the payment of support by the parent will pose a  
20 barrier to the proposed reunification, in that the payment of support  
21 will compromise the parent's ability to meet the requirements of  
22 the parent's reunification plan.

23 (2) Whether the payment of support by the parent will pose a  
24 barrier to the proposed reunification in that the payment of support  
25 will compromise the parent's current or future ability to meet the  
26 financial needs of the child.

27 (b) The department regulations shall provide that, where the  
28 county child welfare department determines that it is not in the  
29 best interests of the child to seek a support order against the parent,  
30 the county child welfare department shall refrain from referring  
31 the case to the local child support agency. The regulations shall  
32 define those circumstances in which it is not in the best interest of  
33 the child to refer the case to the local child support agency.

34 (c) The department regulations shall provide, where the county  
35 child welfare department determines that it is not in the child's  
36 best interest to have his or her case referred to the local child  
37 support agency, the county child welfare department shall review  
38 that determination annually to coincide with the redetermination  
39 of AFDC-FC eligibility under Section 11401.5 of, or the  
40 CalWORKs eligibility under Section 11265 of, or Kin-GAP

1 eligibility under Article 4.5 (commencing with Section 11360) or  
2 Article 4.7 (commencing with Section 11385) of Chapter 2 of Part  
3 3 of Division 9 of, the Welfare and Institutions Code, and shall  
4 refer the child's case to the local child support agency upon a  
5 determination that, due to a change in the child's circumstances,  
6 it is no longer contrary to the child's best interests to have his or  
7 her case referred to the local child support agency.

8 (d) The State Department of Social Services shall promulgate  
9 all necessary regulations pursuant to this section on or before  
10 October 1, 2002.

11 SEC. 3. Section 1501.1 of the Health and Safety Code is  
12 amended to read:

13 1501.1. (a) It is the policy of the state to facilitate the proper  
14 placement of every child in residential care facilities where the  
15 placement is in the best interests of the child. A county may require  
16 placement or licensing agencies, or both placement and licensing  
17 agencies, to actively seek out-of-home care facilities capable of  
18 meeting the varied needs of the child. Therefore, in placing children  
19 in out-of-home care, particular attention should be given to the  
20 individual child's needs, the ability of the facility to meet those  
21 needs, the needs of other children in the facility, the licensing  
22 requirements of the facility as determined by the licensing agency,  
23 and the impact of the placement on the family reunification plan.

24 (b) Pursuant to this section, children with varying designations  
25 and varying needs, including, on and after January 1, 2012,  
26 nonminor dependents, as defined in subdivision (v) of Section  
27 11400 of the Welfare and Institutions Code, except as provided  
28 by statute, may be placed in the same facility provided the facility  
29 is licensed, complies with all licensing requirements relevant to  
30 the protection of the child, and has a special permit, if necessary,  
31 to meet the needs of each child so placed. A facility may not  
32 require, as a condition of placement, that a child be identified as  
33 an individual with exceptional needs as defined by Section 56026  
34 of the Education Code.

35 (c) Neither the requirement for any license nor any regulation  
36 shall restrict the implementation of the provisions of this section.  
37 Implementation of this section does not obviate the requirement  
38 for a facility to be licensed by the department.

39 (d) Pursuant to this section, children with varying designations  
40 and varying needs, including, on and after January 1, 2012,

1 nonminor dependents, as defined in subdivision (v) of Section  
2 11400 of the Welfare and Institutions Code, except as provided  
3 by statute, may be placed in the same licensed foster family home  
4 or with a foster family agency for subsequent placement in a  
5 certified family home. Children, including nonminor dependents,  
6 with developmental disabilities, mental disorders, or physical  
7 disabilities may be placed in licensed foster family homes or  
8 certified family homes, provided that an appraisal of the child's  
9 or nonminor dependent's needs and the ability of the receiving  
10 home to meet those needs is made jointly by the placement agency  
11 and the licensee in the case of licensed foster family homes or the  
12 placement agency and the foster family agency in the case of  
13 certified family homes, and is followed by written confirmation  
14 prior to placement. The appraisal shall confirm that the placement  
15 poses no threat to any child in the home.

16 For purposes of this chapter, the placing of children by foster  
17 family agencies shall be referred to as "subsequent placement" to  
18 distinguish the activity from the placing by public agencies.

19 SEC. 4. Section 1502.7 is added to the Health and Safety Code,  
20 to read:

21 1502.7. (a) On or before July 1, 2012, the department, in  
22 consultation with representatives of the Legislature, the County  
23 Welfare Directors Association, the Chief Probation Officers of  
24 California, the California Youth Connection, the Judicial Council,  
25 former foster youth, child advocacy organizations, dependency  
26 counsel for children, juvenile justice advocacy organizations, foster  
27 caregiver organizations, labor organizations, and representatives  
28 of tribes, shall revise regulations regarding health and safety  
29 standards for licensing foster family homes and community care  
30 facilities in which nonminor dependents, as defined in subdivision  
31 (v) of Section 11400 of the Welfare and Institutions Code, of the  
32 juvenile court are placed under the responsibility of the county  
33 welfare or probation department or an Indian tribe that entered  
34 into an agreement pursuant to Section 10553.1 of the Welfare and  
35 Institutions Code.

36 (b) The regulations shall recognize the status of nonminor  
37 dependents as legal adults. At a minimum, the regulations shall  
38 provide both of the following:

1 (1) That nonminors described in subdivision (a) shall have the  
2 greatest amount of freedom that will safely prepare them for  
3 self-sufficiency.

4 (2) That nonminors described in subdivision (a) in a community  
5 care facility shall not be subject to criminal background clearances  
6 pursuant to Sections 1522 and 1522.1, for the purposes of facility  
7 licensing.

8 (c) Notwithstanding the Administrative Procedure Act, Chapter  
9 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
10 Title 2 of the Government Code, the department shall, in  
11 consultation with the stakeholders listed in subdivision (a), prepare  
12 for implementation of the applicable provisions of this section by  
13 publishing all-county letters or similar instructions from the director  
14 by October 1, 2011, to be effective January 1, 2012. Emergency  
15 regulations to implement this section may be adopted by the  
16 director in accordance with the Administrative Procedure Act. The  
17 initial adoption of the emergency regulations and one readoption  
18 of the initial regulations shall be deemed to be an emergency and  
19 necessary for the immediate preservation of the public peace,  
20 health, safety, or general welfare. Initial emergency regulations  
21 and the first readoption of those emergency regulations shall be  
22 exempt from review by the Office of Administrative Law. The  
23 emergency regulations authorized by this section shall be submitted  
24 to the Office of Administrative Law for filing with the Secretary  
25 of State and shall remain in effect for no more than 180 days.

26 SEC. 5. Section 1505 of the Health and Safety Code is amended  
27 to read:

28 1505. This chapter does not apply to any of the following:

29 (a) Any health facility, as defined by Section 1250.

30 (b) Any clinic, as defined by Section 1202.

31 (c) Any juvenile placement facility approved by the Department  
32 of Corrections and Rehabilitation, Division of Juvenile Justice, or  
33 any juvenile hall operated by a county.

34 (d) Any place in which a juvenile is judicially placed pursuant  
35 to subdivision (a) of Section 727 of the Welfare and Institutions  
36 Code.

37 (e) Any child day care facility, as defined in Section 1596.750.

38 (f) Any facility conducted by and for the adherents of any  
39 well-recognized church or religious denomination for the purpose  
40 of providing facilities for the care or treatment of the sick who

1 depend upon prayer or spiritual means for healing in the practice  
2 of the religion of the church or denomination.

3 (g) Any school dormitory or similar facility determined by the  
4 department.

5 (h) Any house, institution, hotel, homeless shelter, or other  
6 similar place that supplies board and room only, or room only, or  
7 board only, provided that no resident thereof requires any element  
8 of care as determined by the director.

9 (i) Recovery houses or other similar facilities providing group  
10 living arrangements for persons recovering from alcoholism or  
11 drug addiction where the facility provides no care or supervision.

12 (j) Any alcoholism or drug abuse recovery or treatment facility  
13 as defined by Section 11834.11.

14 (k) Any arrangement for the receiving and care of persons by  
15 a relative or any arrangement for the receiving and care of persons  
16 from only one family by a close friend of the parent, guardian, or  
17 conservator, if the arrangement is not for financial profit and occurs  
18 only occasionally and irregularly, as defined by regulations of the  
19 department. For purposes of this chapter, arrangements for the  
20 receiving and care of persons by a relative shall include relatives  
21 of the child for the purpose of keeping sibling groups together.

22 (l) (1) Any home of a relative caregiver of children who are  
23 placed by a juvenile court, supervised by the county welfare or  
24 probation department, and the placement of whom is approved  
25 according to subdivision (d) of Section 309 of the Welfare and  
26 Institutions Code.

27 (2) Any home of a nonrelative extended family member, as  
28 described in Section 362.7 of the Welfare and Institutions Code,  
29 providing care to children who are placed by a juvenile court,  
30 supervised by the county welfare or probation department, and the  
31 placement of whom is approved according to subdivision (d) of  
32 Section 309 of the Welfare and Institutions Code.

33 (3) On and after January 1, 2012, any supervised independent  
34 living setting for nonminor dependents, as defined in subdivision  
35 (w) of Section 11400 of the Welfare and Institutions Code, who  
36 are placed by the juvenile court, supervised by the county welfare  
37 department, probation department, or Indian tribe that entered into  
38 an agreement pursuant to Section 10553.1 of the Welfare and  
39 Institutions Code, and whose placement is approved pursuant to



1 subdivision (k) of Section 11400 of the Welfare and Institutions  
2 Code.

3 (4) On and after January 1, 2012, a THP-Plus Foster Care  
4 setting, for nonminor dependents, as defined in subdivision (x) of  
5 Section 11400 of the Welfare and Institutions Code, who are placed  
6 by the juvenile court, supervised by the county welfare department  
7 or probation department and the placement of whom is approved,  
8 in accordance with subdivision (k) of Section 11400 of the Welfare  
9 and Institutions Code.

10 (m) Any supported living arrangement for individuals with  
11 developmental disabilities, as defined in Section 4689 of the  
12 Welfare and Institutions Code.

13 (n) (1) Any family home agency, family home, or family  
14 teaching home as defined in Section 4689.1 of the Welfare and  
15 Institutions Code, that is vendored by the State Department of  
16 Developmental Services and that does any of the following:

17 (A) As a family home approved by a family home agency,  
18 provides 24-hour care for one or two adults with developmental  
19 disabilities in the residence of the family home provider or  
20 providers and the family home provider or providers' family, and  
21 the provider is not licensed by the State Department of Social  
22 Services or the State Department of Public Health or certified by  
23 a licensee of the State Department of Social Services or the State  
24 Department of Public Health.

25 (B) As a family teaching home approved by a family home  
26 agency, provides 24-hour care for a maximum of three adults with  
27 developmental disabilities in independent residences, whether  
28 contiguous or attached, and the provider is not licensed by the  
29 State Department of Social Services or the State Department of  
30 Public Health or certified by a licensee of the State Department of  
31 Social Services or the State Department of Public Health.

32 (C) As a family home agency, engages in recruiting, approving,  
33 and providing support to family homes.

34 (2) No part of this subdivision shall be construed as establishing  
35 by implication either a family home agency or family home  
36 licensing category.

37 (o) Any facility in which only Indian children who are eligible  
38 under the federal Indian Child Welfare Act (Chapter 21  
39 (commencing with Section 1901) of Title 25 of the United States  
40 Code) are placed and that is one of the following:

1 (1) An extended family member of the Indian child, as defined  
2 in Section 1903 of Title 25 of the United States Code.

3 (2) A foster home that is licensed, approved, or specified by the  
4 Indian child's tribe pursuant to Section 1915 of Title 25 of the  
5 United States Code.

6 (p) (1) (A) Any housing occupied by elderly or disabled  
7 persons, or both, that is initially approved and operated under a  
8 regulatory agreement pursuant to Section 202 of Public Law 86-372  
9 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625  
10 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to  
11 Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that  
12 receives mortgage assistance pursuant to Section 221d (3) of Public  
13 Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are  
14 made available to residents at their option, as long as the project  
15 owner or operator does not contract for or provide the supportive  
16 services.

17 (B) Any housing that qualifies for a low-income housing credit  
18 pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42)  
19 or that is subject to the requirements for rental dwellings for  
20 low-income families pursuant to Section 8 of Public Law 93-383  
21 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled  
22 persons, or both, where supportive services are made available to  
23 residents at their option, as long as the project owner or operator  
24 does not contract for or provide the supportive services.

25 (2) The project owner or operator to which paragraph (1) applies  
26 may coordinate, or help residents gain access to, the supportive  
27 services, either directly, or through a service coordinator.

28 (q) Any similar facility determined by the director.

29 SEC. 5.5. Section 241.1 of the Welfare and Institutions Code  
30 is amended to read:

31 241.1. (a) Whenever a minor appears to come within the  
32 description of both Section 300 and Section 601 or 602, the county  
33 probation department and the child welfare services department  
34 shall, pursuant to a jointly developed written protocol described  
35 in subdivision (b), initially determine which status will serve the  
36 best interests of the minor and the protection of society. The  
37 recommendations of both departments shall be presented to the  
38 juvenile court with the petition that is filed on behalf of the minor,  
39 and the court shall determine which status is appropriate for the  
40 minor. Any other juvenile court having jurisdiction over the minor

1 shall receive notice from the court, within five calendar days, of  
2 the presentation of the recommendations of the departments. The  
3 notice shall include the name of the judge to whom, or the  
4 courtroom to which, the recommendations were presented.

5 (b) The probation department and the child welfare services  
6 department in each county shall jointly develop a written protocol  
7 to ensure appropriate local coordination in the assessment of a  
8 minor described in subdivision (a), and the development of  
9 recommendations by these departments for consideration by the  
10 juvenile court. These protocols shall require, but not be limited to,  
11 consideration of the nature of the referral, the age of the minor,  
12 the prior record of the minor's parents for child abuse, the prior  
13 record of the minor for out-of-control or delinquent behavior, the  
14 parents' cooperation with the minor's school, the minor's  
15 functioning at school, the nature of the minor's home environment,  
16 and the records of other agencies that have been involved with the  
17 minor and his or her family. The protocols also shall contain  
18 provisions for resolution of disagreements between the probation  
19 and child welfare services departments regarding the need for  
20 dependency or ward status and provisions for determining the  
21 circumstances under which a request to the court may be made to  
22 consider a change in the minor's status.

23 (c) Whenever a minor who is under the jurisdiction of the  
24 juvenile court of a county pursuant to Section 300, 601, or 602 is  
25 alleged to come within the description of Section 300, 601, or 602  
26 by another county, the county probation department or child  
27 welfare services department in the county that has jurisdiction  
28 under Section 300, 601, or 602 and the county probation  
29 department or child welfare services department of the county  
30 alleging the minor to be within one of those sections shall initially  
31 determine which status will best serve the best interests of the  
32 minor and the protection of society. The recommendations of both  
33 departments shall be presented to the juvenile court in which the  
34 petition is filed on behalf of the minor, and the court shall  
35 determine which status is appropriate for the minor. In making  
36 their recommendation to the juvenile court, the departments shall  
37 conduct an assessment consistent with the requirements of  
38 subdivision (b). Any other juvenile court having jurisdiction over  
39 the minor shall receive notice from the court in which the petition  
40 is filed within five calendar days of the presentation of the

1 recommendations of the departments. The notice shall include the  
2 name of the judge to whom, or the courtroom to which, the  
3 recommendations were presented.

4 (d) Except as provided in subdivision (e), nothing in this section  
5 shall be construed to authorize the filing of a petition or petitions,  
6 or the entry of an order by the juvenile court, to make a minor  
7 simultaneously both a dependent child and a ward of the court.  
8 However, on and after January 1, 2012, if the court finds that a  
9 delinquent ward under 18 years of age, who was removed from  
10 his or her parents or guardian and placed in foster care as a  
11 dependent child of the court at the time the court adjudged the  
12 child a delinquent ward or who was removed from his or her  
13 parents or guardian and placed in foster care as a delinquent ward,  
14 no longer appears to come within the description of a delinquent  
15 ward, but does come within the description of a dependent child  
16 as set forth in Section 300, the court may modify its order of  
17 jurisdiction pursuant to Section 601 or 602, and assert dependency  
18 jurisdiction pursuant to Section 300 by means of a petition filed  
19 pursuant to Section 387 or 388. The county protocols described  
20 in subdivisions (a) and (b) shall include a process for determining  
21 which agency and court shall supervise dependent children whose  
22 jurisdiction is modified pursuant to this subdivision.

23 (e) Notwithstanding subdivision (d), the probation department  
24 and the child welfare services department, in consultation with the  
25 presiding judge of the juvenile court, in any county may create a  
26 jointly written protocol to allow the county probation department  
27 and the child welfare services department to jointly assess and  
28 produce a recommendation that the child be designated as a dual  
29 status child, allowing the child to be simultaneously a dependent  
30 child and a ward of the court. This protocol shall be signed by the  
31 chief probation officer, the director of the county social services  
32 agency, and the presiding judge of the juvenile court prior to its  
33 implementation. No juvenile court may order that a child is  
34 simultaneously a dependent child and a ward of the court pursuant  
35 to this subdivision unless and until the required protocol has been  
36 created and entered into. This protocol shall include all of the  
37 following:

38 (1) A description of the process to be used to determine whether  
39 the child is eligible to be designated as a dual status child.

1 (2) A description of the procedure by which the probation  
2 department and the child welfare services department will assess  
3 the necessity for dual status for specified children and the process  
4 to make joint recommendations for the court's consideration prior  
5 to making a determination under this section. These  
6 recommendations shall ensure a seamless transition from wardship  
7 to dependency jurisdiction, as appropriate, so that services to the  
8 child are not disrupted upon termination of the wardship.

9 (3) A provision for ensuring communication between the judges  
10 who hear petitions concerning children for whom dependency  
11 jurisdiction has been suspended while they are within the  
12 jurisdiction of the juvenile court pursuant to Section 601 or 602.  
13 A judge may communicate by providing a copy of any reports  
14 filed pursuant to Section 727.2 concerning a ward to a court that  
15 has jurisdiction over dependency proceedings concerning the child.

16 (4) A plan to collect data in order to evaluate the protocol  
17 pursuant to Section 241.2.

18 (5) Counties that exercise the option provided for in this  
19 subdivision shall adopt either an "on-hold" system as described  
20 in subparagraph (A) or a "lead court/lead agency" system as  
21 described in subparagraph (B). In no case shall there be any  
22 simultaneous or duplicative case management or services provided  
23 by both the county probation department and the child welfare  
24 services department. It is the intent of the Legislature that judges,  
25 in cases in which more than one judge is involved, shall not issue  
26 conflicting orders.

27 (A) In counties in which an on-hold system is adopted, the  
28 dependency jurisdiction shall be suspended or put on hold while  
29 the child is subject to jurisdiction as a ward of the court. When it  
30 appears that termination of the court's jurisdiction, as established  
31 pursuant to Section 601 or 602, is likely and that reunification of  
32 the child with his or her parent or guardian would be detrimental  
33 to the child, the county probation department and the child welfare  
34 services department shall jointly assess and produce a  
35 recommendation for the court regarding whether the court's  
36 dependency jurisdiction shall be resumed.

37 (B) In counties in which a lead court/lead agency system is  
38 adopted, the protocol shall include a method for identifying which  
39 court or agency will be the lead court/lead agency. That court or

1 agency shall be responsible for case management, conducting  
2 statutorily mandated court hearings, and submitting court reports.

3 SEC. 6. Section 293 of the Welfare and Institutions Code is  
4 amended to read:

5 293. The social worker or probation officer shall give notice  
6 of the review hearings held pursuant to Section 366.21, 366.22,  
7 or 366.25 in the following manner:

8 (a) Notice of the hearing shall be given to the following persons:

9 (1) The mother.

10 (2) The presumed father or any father receiving services.

11 (3) The legal guardian or guardians.

12 (4) The child, if the child is 10 years of age or older.

13 (5) Any known sibling of the child who is the subject of the  
14 hearing if that sibling either is the subject of a dependency  
15 proceeding or has been adjudged to be a dependent child of the  
16 juvenile court. If the sibling is 10 years of age or older, the sibling,  
17 the sibling's caregiver, and the sibling's attorney. If the sibling is  
18 under 10 years of age, the sibling's caregiver and the sibling's  
19 attorney. However, notice is not required to be given to any sibling  
20 whose matter is calendared in the same court on the same day.

21 (6) In the case of a child removed from the physical custody of  
22 his or her parent or legal guardian, the current caregiver of the  
23 child, including the foster parents, relative caregivers, preadoptive  
24 parents, nonrelative extended family members, community care  
25 facility, or foster family agency having custody of the child. In a  
26 case in which a foster family agency is notified of the hearing  
27 pursuant to this section, and the child resides in a foster home  
28 certified by the foster family agency, the foster family agency shall  
29 provide timely notice of the hearing to the child's caregivers.

30 (7) Each attorney of record if that attorney was not present at  
31 the time that the hearing was set by the court.

32 (b) No notice is required for a parent whose parental rights have  
33 been terminated. On and after January 1, 2012, in the case of a  
34 nonminor dependent, as described in subdivision (v) of Section  
35 11400, no notice is required for a parent.

36 (c) The notice of hearing shall be served not earlier than 30  
37 days, nor later than 15 days, before the hearing.

38 (d) The notice shall contain a statement regarding the nature of  
39 the hearing to be held and any change in the custody or status of  
40 the child being recommended by the supervising agency. If the

1 notice is to the child, parent or parents, or legal guardian or  
2 guardians, the notice shall also advise them of the right to be  
3 present, the right to be represented by counsel, the right to request  
4 counsel, and the right to present evidence. The notice shall also  
5 state that if the parent or parents or legal guardian or guardians  
6 fail to appear, the court may proceed without them.

7 (e) Service of the notice shall be by first-class mail addressed  
8 to the last known address of the person to be noticed or by personal  
9 service on the person. Service of a copy of the notice shall be by  
10 personal service or by certified mail, return receipt requested, or  
11 any other form of notice that is equivalent to service by first-class  
12 mail.

13 (f) Notice to the current caregiver of the child, including a foster  
14 parent, a relative caregiver, a preadoptive parent, or a nonrelative  
15 extended family member, or to a certified foster parent who has  
16 been approved for adoption, or the State Department of Social  
17 Services when it is acting as an adoption agency in counties that  
18 are not served by a county adoption agency or by a licensed county  
19 adoption agency, shall indicate that the person notified may attend  
20 all hearings or may submit any information he or she deems  
21 relevant to the court in writing.

22 (g) If the social worker or probation officer knows or has reason  
23 to know that an Indian child is involved, notice shall be given in  
24 accordance with Section 224.2.

25 SEC. 6.5. Section 295 of the Welfare and Institutions Code is  
26 amended to read:

27 295. The social worker or probation officer shall give notice  
28 of review hearings held pursuant to Section 366.3 in the following  
29 manner:

30 (a) Notice of the hearing shall be given to the following persons:

31 (1) The mother.

32 (2) The presumed father.

33 (3) The legal guardian or guardians.

34 (4) The child, if the child is 10 years of age or older.

35 (5) Any known sibling of the child who is the subject of the  
36 hearing if that sibling either is the subject of a dependency  
37 proceeding or has been adjudged to be a dependent child of the  
38 juvenile court. If the sibling is 10 years of age or older, the sibling,  
39 the sibling's caregiver, and the sibling's attorney. If the sibling is  
40 under 10 years of age, the sibling's caregiver and the sibling's

1 attorney. However, notice is not required to be given to any sibling  
2 whose matter is calendared in the same court on the same day.

3 (6) The current caregiver of the child, including foster parents,  
4 relative caregivers, preadoptive parents, nonrelative extended  
5 family members, community care facility, or foster family agency  
6 having physical custody of the child if a child is removed from the  
7 physical custody of the parents or legal guardian. The person  
8 notified may attend all hearings and may submit any information  
9 he or she deems relevant to the court in writing.

10 (7) The attorney of record if that attorney of record was not  
11 present at the time that the hearing was set by the court.

12 (8) The alleged father or fathers, but only if the recommendation  
13 is to set a new hearing pursuant to Section 366.26.

14 (b) No notice is required for a parent whose parental rights have  
15 been terminated. On and after January 1, 2012, in the case of a  
16 nonminor dependent, as described in subdivision (v) of Section  
17 11400, no notice is required for a parent.

18 (c) The notice of the review hearing shall be served no earlier  
19 than 30 days, nor later than 15 days, before the hearing.

20 (d) The notice of the review hearing shall contain a statement  
21 regarding the nature of the hearing to be held, any recommended  
22 change in the custody or status of the child, and any  
23 recommendation that the court set a new hearing pursuant to  
24 Section 366.26 in order to select a more permanent plan.

25 (e) Service of notice shall be by first-class mail addressed to  
26 the last known address of the person to be provided notice. In the  
27 case of an Indian child, notice shall be by registered mail, return  
28 receipt requested.

29 (f) If the child is ordered into a permanent plan of legal  
30 guardianship, and subsequently a petition to terminate or modify  
31 the guardianship is filed, the probation officer or social worker  
32 shall serve notice of the petition not less than 15 court days prior  
33 to the hearing on all persons listed in subdivision (a) and on the  
34 court that established legal guardianship if it is in another county.

35 (g) If the social worker or probation officer knows or has reason  
36 to know that an Indian child is involved, notice shall be given in  
37 accordance with Section 224.2.

38 SEC. 6.7. Section 297 of the Welfare and Institutions Code is  
39 amended to read:



1 297. (a) Notice required for an initial petition filed pursuant  
2 to Section 300 is applicable to a subsequent petition filed pursuant  
3 to Section 342.

4 (b) Upon the filing of a supplemental petition pursuant to Section  
5 387, the clerk of the juvenile court shall immediately set the matter  
6 for hearing within 30 days of the date of the filing, and the social  
7 worker or probation officer shall cause notice thereof to be served  
8 upon the persons required by, and in the manner prescribed by,  
9 Sections 290.1, 290.2, and 291.

10 (c) If a petition for modification has been filed pursuant to  
11 Section 388, and it appears that the best interest of the child may  
12 be promoted by the proposed change of the order, the recognition  
13 of a sibling relationship, or the termination of jurisdiction, the  
14 court shall order that a hearing be held and shall give prior notice,  
15 or cause prior notice to be given, to the social worker or probation  
16 officer and to the child's attorney of record, or if there is no  
17 attorney of record for the child, to the child, and his or her parent  
18 or parents or legal guardian or guardians in the manner prescribed  
19 by Section 291 unless a different manner is prescribed by the court.

20 (d) If the court knows or has reason to know that an Indian child  
21 is involved, notice shall be given in accordance with Section 224.2.

22 (e) On and after January 1, 2012, if a petition for modification  
23 has been filed pursuant to subdivision (e) of Section 388 by a  
24 nonminor dependent, as described in subdivision (v) of Section  
25 11400, no notice is required for a parent.

26 SEC. 7. Section 300.3 is added to the Welfare and Institutions  
27 Code, to read:

28 300.3. (a) Notwithstanding Section 215 or 272, or any other  
29 provision of law, a child or nonminor whose jurisdiction is  
30 modified pursuant to subdivision (d) of Section 241.1 and who is  
31 placed in foster care may be supervised by the probation  
32 department of the county in which the court with jurisdiction over  
33 the dependent is located, if the county protocol in that county  
34 requires it. In those counties, all case management, case plan  
35 review, and reporting functions as described in Sections 671 and  
36 675 of Title 42 of the United States Code and contained in this  
37 article shall be performed by the probation officer for these  
38 dependents.

39 (b) This section shall become operative on January 1, 2012.

1 SEC. 8. Section 303 of the Welfare and Institutions Code is  
2 amended to read:

3 303. (a) The court may retain jurisdiction over any person who  
4 is found to be a dependent child of the juvenile court until the ward  
5 or dependent child attains the age of 21 years.

6 (b) On and after January 1, 2012, the court shall have within its  
7 jurisdiction any nonminor dependent, as defined in subdivision  
8 (v) of Section 11400. The court may terminate its dependency or  
9 delinquency jurisdiction over the nonminor dependent between  
10 the time the nonminor reaches the age of majority and 21 years of  
11 age. If the court terminates dependency or delinquency jurisdiction,  
12 the nonminor dependent shall remain under the jurisdiction of the  
13 court in order to allow for a petition under subdivision (e) of  
14 Section 388.

15 (c) On and after January 1, 2012, a nonminor who has not yet  
16 attained 21 years of age and who exited foster care at or after the  
17 age of majority may petition the court pursuant to subdivision (e)  
18 of Section 388 to resume dependency or delinquency jurisdiction  
19 over the nonminor dependent.

20 (d) Nothing in this code, including, but not limited to, Sections  
21 340, 366.27, and 369.5, shall be construed to provide legal custody  
22 of a person who has attained 18 years of age to the county welfare  
23 or probation department or to otherwise abrogate any other rights  
24 that a person who has attained 18 years of age may have as an  
25 adult under California law. A nonminor dependent shall retain all  
26 of his or her legal decisionmaking authority as an adult. The  
27 nonminor shall enter into a mutual agreement for placement, as  
28 described in subdivision (d) of Section 11403, in which the  
29 nonminor consents to placement in a setting supervised by the  
30 placing agency as a condition of the receipt of foster care benefits.

31 (e) Unless otherwise specified the rights of a dependent child  
32 and the responsibilities of the county welfare or probation  
33 department, or tribe, and other entities, toward the child and family,  
34 shall also apply to nonminor dependents.

35 SEC. 8.5. Section 317 of the Welfare and Institutions Code is  
36 amended to read:

37 317. (a) (1) When it appears to the court that a parent or  
38 guardian of the child desires counsel but is presently financially  
39 unable to afford and cannot for that reason employ counsel, the  
40 court may appoint counsel as provided in this section.

1 (2) When it appears to the court that a parent or Indian custodian  
2 in an Indian child custody proceeding desires counsel but is  
3 presently unable to afford and cannot for that reason employ  
4 counsel, the provisions of subsection (b) of Section 1912 of the  
5 Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) and Section  
6 23.13 of Title 25 of the Code of Federal Regulations are applicable.

7 (b) When it appears to the court that a parent or guardian of the  
8 child is presently financially unable to afford and cannot for that  
9 reason employ counsel, and the child has been placed in  
10 out-of-home care, or the petitioning agency is recommending that  
11 the child be placed in out-of-home care, the court shall appoint  
12 counsel for the parent or guardian, unless the court finds that the  
13 parent or guardian has made a knowing and intelligent waiver of  
14 counsel as provided in this section.

15 (c) If a child is not represented by counsel, the court shall  
16 appoint counsel for the child unless the court finds that the child  
17 would not benefit from the appointment of counsel. The court shall  
18 state on the record its reasons for that finding. A primary  
19 responsibility of any counsel appointed to represent a child  
20 pursuant to this section shall be to advocate for the protection,  
21 safety, and physical and emotional well-being of the child. Counsel  
22 for the child may be a district attorney, public defender, or other  
23 member of the bar, provided that the counsel does not represent  
24 another party or county agency whose interests conflict with the  
25 child's interests. The fact that the district attorney represents the  
26 child in a proceeding pursuant to Section 300 as well as conducts  
27 a criminal investigation or files a criminal complaint or information  
28 arising from the same or reasonably related set of facts as the  
29 proceeding pursuant to Section 300 is not in and of itself a conflict  
30 of interest. The court may fix the compensation for the services  
31 of appointed counsel. The appointed counsel shall have a caseload  
32 and training that ensures adequate representation of the child. The  
33 Judicial Council shall promulgate rules of court that establish  
34 caseload standards, training requirements, and guidelines for  
35 appointed counsel for children and shall adopt rules as required  
36 by Section 326.5 no later than July 1, 2001.

37 (d) The counsel appointed by the court shall represent the parent,  
38 guardian, or child at the detention hearing and at all subsequent  
39 proceedings before the juvenile court. Counsel shall continue to  
40 represent the parent, guardian, or child unless relieved by the court

1 upon the substitution of other counsel or for cause. The  
2 representation shall include representing the parent, guardian, or  
3 the child in termination proceedings and in those proceedings  
4 relating to the institution or setting aside of a legal guardianship.  
5 On and after January 1, 2012, in the case of a nonminor dependent,  
6 as described in subdivision (v) of Section 11400, no representation  
7 by counsel shall be provided for a parent.

8 (e) The counsel for the child shall be charged in general with  
9 the representation of the child's interests. To that end, the counsel  
10 shall make or cause to have made any further investigations that  
11 he or she deems in good faith to be reasonably necessary to  
12 ascertain the facts, including the interviewing of witnesses, and  
13 he or she shall examine and cross-examine witnesses in both the  
14 adjudicatory and dispositional hearings. He or she may also  
15 introduce and examine his or her own witnesses, make  
16 recommendations to the court concerning the child's welfare, and  
17 participate further in the proceedings to the degree necessary to  
18 adequately represent the child. In any case in which the child is  
19 four years of age or older, counsel shall interview the child to  
20 determine the child's wishes and to assess the child's well-being,  
21 and shall advise the court of the child's wishes. Counsel for the  
22 child shall not advocate for the return of the child if, to the best of  
23 his or her knowledge, that return conflicts with the protection and  
24 safety of the child. In addition counsel shall investigate the interests  
25 of the child beyond the scope of the juvenile proceeding and report  
26 to the court other interests of the child that may need to be  
27 protected by the institution of other administrative or judicial  
28 proceedings. The attorney representing a child in a dependency  
29 proceeding is not required to assume the responsibilities of a social  
30 worker and is not expected to provide nonlegal services to the  
31 child. The court shall take whatever appropriate action is necessary  
32 to fully protect the interests of the child.

33 (f) Either the child or the counsel for the child, with the informed  
34 consent of the child if the child is found by the court to be of  
35 sufficient age and maturity to so consent, which shall be presumed,  
36 subject to rebuttal by clear and convincing evidence, if the child  
37 is over 12 years of age, may invoke the psychotherapist-client  
38 privilege, physician-patient privilege, and clergyman-penitent  
39 privilege; and if the child invokes the privilege, counsel may not  
40 waive it, but if counsel invokes the privilege, the child may waive

1 it. Counsel shall be holder of these privileges if the child is found  
2 by the court not to be of sufficient age and maturity to so consent.  
3 For the sole purpose of fulfilling his or her obligation to provide  
4 legal representation of the child, counsel for a child shall have  
5 access to all records with regard to the child maintained by a health  
6 care facility, as defined in Section 1545 of the Penal Code, health  
7 care providers, as defined in Section 6146 of the Business and  
8 Professions Code, a physician and surgeon or other health  
9 practitioner, as defined in former Section 11165.8 of the Penal  
10 Code, as that section read on January 1, 2000, or a child care  
11 custodian, as defined in former Section 11165.7 of the Penal Code,  
12 as that section read on January 1, 2000. Notwithstanding any other  
13 law, counsel shall be given access to all records relevant to the  
14 case which are maintained by state or local public agencies. All  
15 information requested from a child protective agency regarding a  
16 child who is in protective custody, or from a child's guardian ad  
17 litem, shall be provided to the child's counsel within 30 days of  
18 the request.

19 (g) In a county of the third class, if counsel is to be provided to  
20 a child at county expense other than by counsel for the agency,  
21 the court shall first utilize the services of the public defender prior  
22 to appointing private counsel, to provide legal counsel. Nothing  
23 in this subdivision shall be construed to require the appointment  
24 of the public defender in any case in which the public defender  
25 has a conflict of interest. In the interest of justice, a court may  
26 depart from that portion of the procedure requiring appointment  
27 of the public defender after making a finding of good cause and  
28 stating the reasons therefor on the record.

29 (h) In a county of the third class, if counsel is to be appointed  
30 for a parent or guardian at county expense, the court shall first  
31 utilize the services of the alternate public defender, prior to  
32 appointing private counsel, to provide legal counsel. Nothing in  
33 this subdivision shall be construed to require the appointment of  
34 the alternate public defender in any case in which the public  
35 defender has a conflict of interest. In the interest of justice, a court  
36 may depart from that portion of the procedure requiring  
37 appointment of the alternate public defender after making a finding  
38 of good cause and stating the reasons therefor on the record.

1 SEC. 9. Section 358.1 of the Welfare and Institutions Code,  
2 as amended by Section 4 of Chapter 287 of the Statutes of 2009,  
3 is amended to read:

4 358.1. Each social study or evaluation made by a social worker  
5 or child advocate appointed by the court, required to be received  
6 in evidence pursuant to Section 358, shall include, but not be  
7 limited to, a factual discussion of each of the following subjects:

8 (a) Whether the county welfare department or social worker has  
9 considered child protective services, as defined in Chapter 5  
10 (commencing with Section 16500) of Part 4 of Division 9, as a  
11 possible solution to the problems at hand, and has offered these  
12 services to qualified parents if appropriate under the circumstances.

13 (b) What plan, if any, for return of the child to his or her parents  
14 and for achieving legal permanence for the child if efforts to reunify  
15 fail, is recommended to the court by the county welfare department  
16 or probation officer.

17 (c) Whether the best interests of the child will be served by  
18 granting reasonable visitation rights with the child to his or her  
19 grandparents, in order to maintain and strengthen the child's family  
20 relationships.

21 (d) (1) Whether the child has siblings under the court's  
22 jurisdiction, and, if any siblings exist, all of the following:

23 (A) The nature of the relationship between the child and his or  
24 her siblings.

25 (B) The appropriateness of developing or maintaining the sibling  
26 relationships pursuant to Section 16002.

27 (C) If the siblings are not placed together in the same home,  
28 why the siblings are not placed together and what efforts are being  
29 made to place the siblings together, or why those efforts are not  
30 appropriate.

31 (D) If the siblings are not placed together, the frequency and  
32 nature of the visits between siblings.

33 (E) The impact of the sibling relationships on the child's  
34 placement and planning for legal permanence.

35 (2) The factual discussion shall include a discussion of indicators  
36 of the nature of the child's sibling relationships, including, but not  
37 limited to, whether the siblings were raised together in the same  
38 home, whether the siblings have shared significant common  
39 experiences or have existing close and strong bonds, whether either  
40 sibling expresses a desire to visit or live with his or her sibling, as

1 applicable, and whether ongoing contact is in the child's best  
2 emotional interest.

3 (e) If the parent or guardian is unwilling or unable to participate  
4 in making an educational decision for his or her child, or if other  
5 circumstances exist that compromise the ability of the parent or  
6 guardian to make educational decisions for the child, the county  
7 welfare department or social worker shall consider whether the  
8 right of the parent or guardian to make educational decisions for  
9 the child should be limited. If the study or evaluation makes that  
10 recommendation, it shall identify whether there is a responsible  
11 adult available to make educational decisions for the child pursuant  
12 to Section 361.

13 (f) Whether the child appears to be a person who is eligible to  
14 be considered for further court action to free the child from parental  
15 custody and control.

16 (g) Whether the parent has been advised of his or her option to  
17 participate in adoption planning, including the option to enter into  
18 a postadoption contact agreement as described in Section 8714.7  
19 of the Family Code, and to voluntarily relinquish the child for  
20 adoption if an adoption agency is willing to accept the  
21 relinquishment.

22 (h) The appropriateness of any relative placement pursuant to  
23 Section 361.3. However, this consideration may not be cause for  
24 continuance of the dispositional hearing.

25 (i) Whether the caregiver desires, and is willing, to provide legal  
26 permanency for the child if reunification is unsuccessful.

27 (j) For an Indian child, in consultation with the Indian child's  
28 tribe, whether tribal customary adoption is an appropriate  
29 permanent plan for the child if reunification is unsuccessful.

30 (k) On and after the date that the director executes a declaration  
31 pursuant to Section 11217, whether the child has been placed in  
32 an approved relative's home under a voluntary placement  
33 agreement for a period not to exceed 180 days, the parent or  
34 guardian is not interested in additional family maintenance or  
35 family reunification services, and the relative desires and is willing  
36 to be appointed the child's legal guardian.

37 (l) This section shall remain in effect only until January 1, 2014,  
38 and as of that date is repealed, unless a later enacted statute, that  
39 is enacted before January 1, 2014, deletes or extends that date.

1 SEC. 10. Section 358.1 of the Welfare and Institutions Code,  
2 as added by Section 5 of Chapter 287 of the Statutes of 2009, is  
3 amended to read:

4 358.1. Each social study or evaluation made by a social worker  
5 or child advocate appointed by the court, required to be received  
6 in evidence pursuant to Section 358, shall include, but not be  
7 limited to, a factual discussion of each of the following subjects:

8 (a) Whether the county welfare department or social worker has  
9 considered child protective services, as defined in Chapter 5  
10 (commencing with Section 16500) of Part 4 of Division 9, as a  
11 possible solution to the problems at hand, and has offered these  
12 services to qualified parents if appropriate under the circumstances.

13 (b) What plan, if any, for return of the child to his or her parents  
14 and for achieving legal permanence for the child if efforts to reunify  
15 fail, is recommended to the court by the county welfare department  
16 or probation officer.

17 (c) Whether the best interests of the child will be served by  
18 granting reasonable visitation rights with the child to his or her  
19 grandparents, in order to maintain and strengthen the child's family  
20 relationships.

21 (d) (1) Whether the child has siblings under the court's  
22 jurisdiction, and, if any siblings exist, all of the following:

23 (A) The nature of the relationship between the child and his or  
24 her siblings.

25 (B) The appropriateness of developing or maintaining the sibling  
26 relationships pursuant to Section 16002.

27 (C) If the siblings are not placed together in the same home,  
28 why the siblings are not placed together and what efforts are being  
29 made to place the siblings together, or why those efforts are not  
30 appropriate.

31 (D) If the siblings are not placed together, the frequency and  
32 nature of the visits between siblings.

33 (E) The impact of the sibling relationships on the child's  
34 placement and planning for legal permanence.

35 (2) The factual discussion shall include a discussion of indicators  
36 of the nature of the child's sibling relationships, including, but not  
37 limited to, whether the siblings were raised together in the same  
38 home, whether the siblings have shared significant common  
39 experiences or have existing close and strong bonds, whether either  
40 sibling expresses a desire to visit or live with his or her sibling, as



1 applicable, and whether ongoing contact is in the child's best  
2 emotional interest.

3 (e) If the parent or guardian is unwilling or unable to participate  
4 in making an educational decision for his or her child, or if other  
5 circumstances exist that compromise the ability of the parent or  
6 guardian to make educational decisions for the child, the county  
7 welfare department or social worker shall consider whether the  
8 right of the parent or guardian to make educational decisions for  
9 the child should be limited. If the study or evaluation makes that  
10 recommendation, it shall identify whether there is a responsible  
11 adult available to make educational decisions for the child pursuant  
12 to Section 361.

13 (f) Whether the child appears to be a person who is eligible to  
14 be considered for further court action to free the child from parental  
15 custody and control.

16 (g) Whether the parent has been advised of his or her option to  
17 participate in adoption planning, including the option to enter into  
18 a postadoption contact agreement as described in Section 8714.7  
19 of the Family Code, and to voluntarily relinquish the child for  
20 adoption if an adoption agency is willing to accept the  
21 relinquishment.

22 (h) The appropriateness of any relative placement pursuant to  
23 Section 361.3. However, this consideration may not be cause for  
24 continuance of the dispositional hearing.

25 (i) Whether the caregiver desires, and is willing, to provide legal  
26 permanency for the child if reunification is unsuccessful.

27 (j) For an Indian child, in consultation with the Indian child's  
28 tribe, whether tribal customary adoption is an appropriate  
29 permanent plan for the child if reunification is unsuccessful.

30 (k) On and after the date that the director executes a declaration  
31 pursuant to Section 11217, whether the child has been placed in  
32 an approved relative's home under a voluntary placement  
33 agreement for a period not to exceed 180 days, the parent or  
34 guardian is not interested in additional family maintenance or  
35 family reunification services, and the relative desires and is willing  
36 to be appointed the child's legal guardian.

37 (l) This section shall become operative on January 1, 2014.

38 SEC. 11. Section 360 of the Welfare and Institutions Code is  
39 amended to read:

1     360. After receiving and considering the evidence on the proper  
2 disposition of the case, the juvenile court may enter judgment as  
3 follows:

4     (a) Notwithstanding any other provision of law, if the court  
5 finds that the child is a person described by Section 300 and the  
6 parent has advised the court that the parent is not interested in  
7 family maintenance or family reunification services, it may, in  
8 addition to or in lieu of adjudicating the child a dependent child  
9 of the court, order a legal guardianship, appoint a legal guardian,  
10 and issue letters of guardianship, if the court determines that a  
11 guardianship is in the best interest of the child, provided the parent  
12 and the child agree to the guardianship, unless the child's age or  
13 physical, emotional, or mental condition prevents the child's  
14 meaningful response. The court shall advise the parent and the  
15 child that no reunification services will be provided as a result of  
16 the establishment of a guardianship. The proceeding for the  
17 appointment of a guardian shall be in the juvenile court.

18     Any application for termination of guardianship shall be filed  
19 in juvenile court in a form as may be developed by the Judicial  
20 Council pursuant to Section 68511 of the Government Code.  
21 Sections 366.4 and 388 shall apply to this order of guardianship.

22     No person shall be appointed a legal guardian under this section  
23 until an assessment as specified in subdivision (g) of Section 361.5  
24 is read and considered by the court and reflected in the minutes of  
25 the court.

26     On and after the date that the director executes a declaration  
27 pursuant to Section 11217, if the court appoints an approved  
28 relative caregiver as the child's legal guardian, the child has been  
29 in the care of that approved relative for a period of six consecutive  
30 months under a voluntary placement agreement, and the child  
31 otherwise meets the conditions for federal financial participation,  
32 the child shall be eligible for aid under the Kin-GAP Program as  
33 provided in Article 4.7 (commencing with Section 11385) of  
34 Chapter 2. The nonfederally eligible child placed with an approved  
35 relative caregiver who is appointed as the child's legal guardian  
36 shall be eligible for aid under the state-funded Kin-GAP Program,  
37 as provided for in Article 4.5 (commencing with Section 11360)  
38 of Chapter 2.

39     The person responsible for preparing the assessment may be  
40 called and examined by any party to the guardianship proceeding.

1 (b) If the court finds that the child is a person described by  
2 Section 300, it may, without adjudicating the child a dependent  
3 child of the court, order that services be provided to keep the family  
4 together and place the child and the child's parent or guardian  
5 under the supervision of the social worker for a time period  
6 consistent with Section 301.

7 (c) If the family subsequently is unable or unwilling to cooperate  
8 with the services being provided, the social worker may file a  
9 petition with the juvenile court pursuant to Section 332 alleging  
10 that a previous petition has been sustained and that disposition  
11 pursuant to subdivision (b) has been ineffective in ameliorating  
12 the situation requiring the child welfare services. Upon hearing  
13 the petition, the court shall order either that the petition shall be  
14 dismissed or that a new disposition hearing shall be held pursuant  
15 to subdivision (d).

16 (d) If the court finds that the child is a person described by  
17 Section 300, it may order and adjudge the child to be a dependent  
18 child of the court.

19 SEC. 12. Section 361.45 of the Welfare and Institutions Code  
20 is amended to read:

21 361.45. (a) Notwithstanding any other provision of law, when  
22 the sudden unavailability of a foster caregiver requires a change  
23 in placement on an emergency basis for a child who is under the  
24 jurisdiction of the juvenile court pursuant to Section 300, if an able  
25 and willing relative, as defined in Section 319, or an able and  
26 willing nonrelative extended family member, as defined in Section  
27 362.7, is available and requests temporary placement of the child  
28 pending resolution of the emergency situation, the county welfare  
29 department shall initiate an assessment of the relative's or  
30 nonrelative extended family member's suitability, which shall  
31 include an in-home inspection to assess the safety of the home and  
32 the ability of the relative or nonrelative extended family member  
33 to care for the child's needs, and a consideration of the results of  
34 a criminal records check conducted pursuant to Section 16504.5  
35 and a check of allegations of prior child abuse or neglect  
36 concerning the relative or nonrelative extended family member  
37 and other adults in the home. Upon completion of this assessment,  
38 the child may be placed in the assessed home. For purposes of this  
39 paragraph, and except for the criminal records check conducted  
40 pursuant to Section 16504.5, the standards used to determine

1 suitability shall be the same standards set forth in the regulations  
2 for the licensing of foster family homes.

3 (b) Immediately following the placement of a child in the home  
4 of a relative or a nonrelative extended family member, the county  
5 welfare department shall evaluate and approve or deny the home  
6 for purposes of AFDC-FC eligibility pursuant to Section 11402.  
7 The standards used to evaluate and grant or deny approval of the  
8 home of the relative and of the home of a nonrelative extended  
9 family member, as described in Section 362.7, shall be the same  
10 standards set forth in regulations for the licensing of foster family  
11 homes which prescribe standards of safety and sanitation for the  
12 physical plant and standards for basic personal care, supervision,  
13 and services provided by the caregiver.

14 (c) If a relative or nonrelative extended family member, and  
15 other adults in the home, as indicated, meets all other conditions  
16 for approval, except for the receipt of the Federal Bureau of  
17 Investigation's criminal history information for the relative or  
18 nonrelative extended family member, the county welfare  
19 department may approve the home and document that approval,  
20 if the relative or nonrelative extended family member, and each  
21 adult in the home, has signed and submitted a statement that he or  
22 she has never been convicted of a crime in the United States, other  
23 than a traffic infraction as defined in paragraph (1) of subdivision  
24 (a) of Section 42001 of the Vehicle Code. If, after the approval  
25 has been granted, the department determines that the relative or  
26 nonrelative extended family member or other adult in the home  
27 has a criminal record, the approval may be terminated.

28 (d) (1) On and after January 1, 2012, if a nonminor dependent,  
29 as defined in subdivision (v) of Section 11400, is placed in the  
30 home of a relative or nonrelative extended family member, the  
31 home shall be approved using the same standards set forth in  
32 regulations as described in Section 1502.7 of the Health and Safety  
33 Code.

34 (2) On or before July 1, 2012, the department, in consultation  
35 with representatives of the Legislature, the County Welfare  
36 Directors Association, the Chief Probation Officers of California,  
37 the California Youth Connection, the Judicial Council, former  
38 foster youth, child advocacy organizations, dependency counsel  
39 for children, juvenile justice advocacy organizations, foster  
40 caregiver organizations, labor organizations, and representatives

1 of Indian tribes, shall revise regulations regarding health and safety  
2 standards for approving relative homes in which nonminor  
3 dependents, as defined in subdivision (v) of Section 11400, of the  
4 juvenile court are placed under the responsibility of the county  
5 welfare or probation department, or an Indian tribe that entered  
6 into an agreement pursuant to Section 10553.1.

7 (3) Notwithstanding the Administrative Procedure Act (Chapter  
8 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
9 Title 2 of the Government Code), the department, in consultation  
10 with the stakeholders listed in paragraph (2), shall prepare for  
11 implementation of the applicable provisions of this section by  
12 publishing all-county letters or similar instructions from the director  
13 by October 1, 2011, to be effective January 1, 2012. Emergency  
14 regulations to implement this section may be adopted by the  
15 director in accordance with the Administrative Procedure Act. The  
16 initial adoption of the emergency regulations and one readoption  
17 of the initial regulations shall be deemed to be an emergency and  
18 necessary for the immediate preservation of the public peace,  
19 health, safety, or general welfare. Initial emergency regulations  
20 and the first readoption of those emergency regulations shall be  
21 exempt from review by the Office of Administrative Law. The  
22 emergency regulations authorized by this section shall be submitted  
23 to the Office of Administrative Law for filing with the Secretary  
24 of State and shall remain in effect for no more than 180 days.

25 SEC. 13. Section 361.5 of the Welfare and Institutions Code,  
26 as amended by Section 6 of Chapter 287 of the Statutes of 2009,  
27 is amended to read:

28 361.5. (a) Except as provided in subdivision (b), or when the  
29 parent has voluntarily relinquished the child and the relinquishment  
30 has been filed with the State Department of Social Services, or  
31 upon the establishment of an order of guardianship pursuant to  
32 Section 360, whenever a child is removed from a parent's or  
33 guardian's custody, the juvenile court shall order the social worker  
34 to provide child welfare services to the child and the child's mother  
35 and statutorily presumed father or guardians. Upon a finding and  
36 declaration of paternity by the juvenile court or proof of a prior  
37 declaration of paternity by any court of competent jurisdiction, the  
38 juvenile court may order services for the child and the biological  
39 father, if the court determines that the services will benefit the  
40 child.

1 (1) Family reunification services, when provided, shall be  
2 provided as follows:

3 (A) Except as otherwise provided in subparagraph (C), for a  
4 child who, on the date of initial removal from the physical custody  
5 of his or her parent or guardian, was three years of age or older,  
6 court-ordered services shall be provided beginning with the  
7 dispositional hearing and ending 12 months after the date the child  
8 entered foster care as defined in Section 361.49, unless the child  
9 is returned to the home of the parent or guardian.

10 (B) For a child who, on the date of initial removal from the  
11 physical custody of his or her parent or guardian, was under three  
12 years of age, court-ordered services shall be provided for a period  
13 of six months from the dispositional hearing as provided in  
14 subdivision (e) of Section 366.21, but no longer than 12 months  
15 from the date the child entered foster care as defined in Section  
16 361.49 unless the child is returned to the home of the parent or  
17 guardian.

18 (C) For the purpose of placing and maintaining a sibling group  
19 together in a permanent home should reunification efforts fail, for  
20 a child in a sibling group whose members were removed from  
21 parental custody at the same time, and in which one member of  
22 the sibling group was under three years of age on the date of initial  
23 removal from the physical custody of his or her parent or guardian,  
24 court-ordered services for some or all of the sibling group may be  
25 limited as set forth in subparagraph (B). For the purposes of this  
26 paragraph, “a sibling group” shall mean two or more children who  
27 are related to each other as full or half siblings.

28 (2) Any motion to terminate court-ordered reunification services  
29 prior to the hearing set pursuant to subdivision (f) of Section 366.21  
30 for a child described by subparagraph (A) of paragraph (1), or  
31 prior to the hearing set pursuant to subdivision (e) of Section  
32 366.21 for a child described by subparagraph (B) or (C) of  
33 paragraph (1), shall be made pursuant to the requirements set forth  
34 in subdivision (c) of Section 388. A motion to terminate  
35 court-ordered reunification services shall not be required at the  
36 hearing set pursuant to subdivision (e) of Section 366.21 if the  
37 court finds by clear and convincing evidence one of the following:

38 (A) That the child was removed initially under subdivision (g)  
39 of Section 300 and the whereabouts of the parent are still unknown.

40 (B) That the parent has failed to contact and visit the child.

1 (C) That the parent has been convicted of a felony indicating  
2 parental unfitness.

3 (3) Notwithstanding subparagraphs (A), (B), and (C) of  
4 paragraph (1), court-ordered services may be extended up to a  
5 maximum time period not to exceed 18 months after the date the  
6 child was originally removed from physical custody of his or her  
7 parent or guardian if it can be shown, at the hearing held pursuant  
8 to subdivision (f) of Section 366.21, that the permanent plan for  
9 the child is that he or she will be returned and safely maintained  
10 in the home within the extended time period. The court shall extend  
11 the time period only if it finds that there is a substantial probability  
12 that the child will be returned to the physical custody of his or her  
13 parent or guardian within the extended time period or that  
14 reasonable services have not been provided to the parent or  
15 guardian. In determining whether court-ordered services may be  
16 extended, the court shall consider the special circumstances of an  
17 incarcerated or institutionalized parent or parents, or parent or  
18 parents court-ordered to a residential substance abuse treatment  
19 program, including, but not limited to, barriers to the parent's or  
20 guardian's access to services and ability to maintain contact with  
21 his or her child. The court shall also consider, among other factors,  
22 good faith efforts that the parent or guardian has made to maintain  
23 contact with the child. If the court extends the time period, the  
24 court shall specify the factual basis for its conclusion that there is  
25 a substantial probability that the child will be returned to the  
26 physical custody of his or her parent or guardian within the  
27 extended time period. The court also shall make findings pursuant  
28 to subdivision (a) of Section 366 and subdivision (e) of Section  
29 358.1.

30 When counseling or other treatment services are ordered, the  
31 parent or guardian shall be ordered to participate in those services,  
32 unless the parent's or guardian's participation is deemed by the  
33 court to be inappropriate or potentially detrimental to the child, or  
34 unless a parent or guardian is incarcerated and the corrections  
35 facility in which he or she is incarcerated does not provide access  
36 to the treatment services ordered by the court. Physical custody of  
37 the child by the parents or guardians during the applicable time  
38 period under subparagraph (A), (B), or (C) of paragraph (1) shall  
39 not serve to interrupt the running of the period. If at the end of the  
40 applicable time period, a child cannot be safely returned to the

1 care and custody of a parent or guardian without court supervision,  
2 but the child clearly desires contact with the parent or guardian,  
3 the court shall take the child's desire into account in devising a  
4 permanency plan.

5 In cases where the child was under three years of age on the date  
6 of the initial removal from the physical custody of his or her parent  
7 or guardian or is a member of a sibling group as described in  
8 subparagraph (C) of paragraph (1), the court shall inform the parent  
9 or guardian that the failure of the parent or guardian to participate  
10 regularly in any court-ordered treatment programs or to cooperate  
11 or avail himself or herself of services provided as part of the child  
12 welfare services case plan may result in a termination of efforts  
13 to reunify the family after six months. The court shall inform the  
14 parent or guardian of the factors used in subdivision (e) of Section  
15 366.21 to determine whether to limit services to six months for  
16 some or all members of a sibling group as described in  
17 subparagraph (C) of paragraph (1).

18 (4) Notwithstanding paragraph (3), court-ordered services may  
19 be extended up to a maximum time period not to exceed 24 months  
20 after the date the child was originally removed from physical  
21 custody of his or her parent or guardian if it is shown, at the hearing  
22 held pursuant to subdivision (b) of Section 366.22, that the  
23 permanent plan for the child is that he or she will be returned and  
24 safely maintained in the home within the extended time period.  
25 The court shall extend the time period only if it finds that it is in  
26 the child's best interest to have the time period extended and that  
27 there is a substantial probability that the child will be returned to  
28 the physical custody of his or her parent or guardian who is  
29 described in subdivision (b) of Section 366.22 within the extended  
30 time period, or that reasonable services have not been provided to  
31 the parent or guardian. If the court extends the time period, the  
32 court shall specify the factual basis for its conclusion that there is  
33 a substantial probability that the child will be returned to the  
34 physical custody of his or her parent or guardian within the  
35 extended time period. The court also shall make findings pursuant  
36 to subdivision (a) of Section 366 and subdivision (e) of Section  
37 358.1.

38 When counseling or other treatment services are ordered, the  
39 parent or guardian shall be ordered to participate in those services,  
40 in order for substantial probability to be found. Physical custody



1 of the child by the parents or guardians during the applicable time  
2 period under subparagraph (A), (B), or (C) of paragraph (1) shall  
3 not serve to interrupt the running of the period. If at the end of the  
4 applicable time period, the child cannot be safely returned to the  
5 care and custody of a parent or guardian without court supervision,  
6 but the child clearly desires contact with the parent or guardian,  
7 the court shall take the child's desire into account in devising a  
8 permanency plan.

9 Except in cases where, pursuant to subdivision (b), the court  
10 does not order reunification services, the court shall inform the  
11 parent or parents of Section 366.26 and shall specify that the  
12 parent's or parents' parental rights may be terminated.

13 (b) Reunification services need not be provided to a parent or  
14 guardian described in this subdivision when the court finds, by  
15 clear and convincing evidence, any of the following:

16 (1) That the whereabouts of the parent or guardian is unknown.  
17 A finding pursuant to this paragraph shall be supported by an  
18 affidavit or by proof that a reasonably diligent search has failed  
19 to locate the parent or guardian. The posting or publication of  
20 notices is not required in that search.

21 (2) That the parent or guardian is suffering from a mental  
22 disability that is described in Chapter 2 (commencing with Section  
23 7820) of Part 4 of Division 12 of the Family Code and that renders  
24 him or her incapable of utilizing those services.

25 (3) That the child or a sibling of the child has been previously  
26 adjudicated a dependent pursuant to any subdivision of Section  
27 300 as a result of physical or sexual abuse, that following that  
28 adjudication the child had been removed from the custody of his  
29 or her parent or guardian pursuant to Section 361, that the child  
30 has been returned to the custody of the parent or guardian from  
31 whom the child had been taken originally, and that the child is  
32 being removed pursuant to Section 361, due to additional physical  
33 or sexual abuse.

34 (4) That the parent or guardian of the child has caused the death  
35 of another child through abuse or neglect.

36 (5) That the child was brought within the jurisdiction of the  
37 court under subdivision (e) of Section 300 because of the conduct  
38 of that parent or guardian.

39 (6) That the child has been adjudicated a dependent pursuant  
40 to any subdivision of Section 300 as a result of severe sexual abuse

1 or the infliction of severe physical harm to the child, a sibling, or  
2 a half sibling by a parent or guardian, as defined in this subdivision,  
3 and the court makes a factual finding that it would not benefit the  
4 child to pursue reunification services with the offending parent or  
5 guardian.

6 A finding of severe sexual abuse, for the purposes of this  
7 subdivision, may be based on, but is not limited to, sexual  
8 intercourse, or stimulation involving genital-genital, oral-genital,  
9 anal-genital, or oral-anal contact, whether between the parent or  
10 guardian and the child or a sibling or half sibling of the child, or  
11 between the child or a sibling or half sibling of the child and  
12 another person or animal with the actual or implied consent of the  
13 parent or guardian; or the penetration or manipulation of the  
14 child's, sibling's, or half sibling's genital organs or rectum by any  
15 animate or inanimate object for the sexual gratification of the  
16 parent or guardian, or for the sexual gratification of another person  
17 with the actual or implied consent of the parent or guardian.

18 A finding of the infliction of severe physical harm, for the  
19 purposes of this subdivision, may be based on, but is not limited  
20 to, deliberate and serious injury inflicted to or on a child's body  
21 or the body of a sibling or half sibling of the child by an act or  
22 omission of the parent or guardian, or of another individual or  
23 animal with the consent of the parent or guardian; deliberate and  
24 torturous confinement of the child, sibling, or half sibling in a  
25 closed space; or any other torturous act or omission that would be  
26 reasonably understood to cause serious emotional damage.

27 (7) That the parent is not receiving reunification services for a  
28 sibling or a half sibling of the child pursuant to paragraph (3), (5),  
29 or (6).

30 (8) That the child was conceived by means of the commission  
31 of an offense listed in Section 288 or 288.5 of the Penal Code, or  
32 by an act committed outside of this state that, if committed in this  
33 state, would constitute one of those offenses. This paragraph only  
34 applies to the parent who committed the offense or act.

35 (9) That the child has been found to be a child described in  
36 subdivision (g) of Section 300, that the parent or guardian of the  
37 child willfully abandoned the child, and the court finds that the  
38 abandonment itself constituted a serious danger to the child; or  
39 that the parent or other person having custody of the child  
40 voluntarily surrendered physical custody of the child pursuant to

1 Section 1255.7 of the Health and Safety Code. For the purposes  
2 of this paragraph, “serious danger” means that without the  
3 intervention of another person or agency, the child would have  
4 sustained severe or permanent disability, injury, illness, or death.  
5 For purposes of this paragraph, “willful abandonment” shall not  
6 be construed as actions taken in good faith by the parent without  
7 the intent of placing the child in serious danger.

8 (10) That the court ordered termination of reunification services  
9 for any siblings or half siblings of the child because the parent or  
10 guardian failed to reunify with the sibling or half sibling after the  
11 sibling or half sibling had been removed from that parent or  
12 guardian pursuant to Section 361 and that parent or guardian is  
13 the same parent or guardian described in subdivision (a) and that,  
14 according to the findings of the court, this parent or guardian has  
15 not subsequently made a reasonable effort to treat the problems  
16 that led to removal of the sibling or half sibling of that child from  
17 that parent or guardian.

18 (11) That the parental rights of a parent over any sibling or half  
19 sibling of the child had been permanently severed, and this parent  
20 is the same parent described in subdivision (a), and that, according  
21 to the findings of the court, this parent has not subsequently made  
22 a reasonable effort to treat the problems that led to removal of the  
23 sibling or half sibling of that child from the parent.

24 (12) That the parent or guardian of the child has been convicted  
25 of a violent felony, as defined in subdivision (c) of Section 667.5  
26 of the Penal Code.

27 (13) That the parent or guardian of the child has a history of  
28 extensive, abusive, and chronic use of drugs or alcohol and has  
29 resisted prior court-ordered treatment for this problem during a  
30 three-year period immediately prior to the filing of the petition  
31 that brought that child to the court’s attention, or has failed or  
32 refused to comply with a program of drug or alcohol treatment  
33 described in the case plan required by Section 358.1 on at least  
34 two prior occasions, even though the programs identified were  
35 available and accessible.

36 (14) That the parent or guardian of the child has advised the  
37 court that he or she is not interested in receiving family  
38 maintenance or family reunification services or having the child  
39 returned to or placed in his or her custody and does not wish to  
40 receive family maintenance or reunification services.

1 The parent or guardian shall be represented by counsel and shall  
2 execute a waiver of services form to be adopted by the Judicial  
3 Council. The court shall advise the parent or guardian of any right  
4 to services and of the possible consequences of a waiver of  
5 services, including the termination of parental rights and placement  
6 of the child for adoption. The court shall not accept the waiver of  
7 services unless it states on the record its finding that the parent or  
8 guardian has knowingly and intelligently waived the right to  
9 services.

10 (15) That the parent or guardian has on one or more occasions  
11 willfully abducted the child or child's sibling or half sibling from  
12 his or her placement and refused to disclose the child's or child's  
13 sibling's or half sibling's whereabouts, refused to return physical  
14 custody of the child or child's sibling or half sibling to his or her  
15 placement, or refused to return physical custody of the child or  
16 child's sibling or half sibling to the social worker.

17 (c) In deciding whether to order reunification in any case in  
18 which this section applies, the court shall hold a dispositional  
19 hearing. The social worker shall prepare a report that discusses  
20 whether reunification services shall be provided. When it is alleged,  
21 pursuant to paragraph (2) of subdivision (b), that the parent is  
22 incapable of utilizing services due to mental disability, the court  
23 shall order reunification services unless competent evidence from  
24 mental health professionals establishes that, even with the provision  
25 of services, the parent is unlikely to be capable of adequately caring  
26 for the child within the time limits specified in subdivision (a).

27 The court shall not order reunification for a parent or guardian  
28 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),  
29 (13), (14), or (15) of subdivision (b) unless the court finds, by clear  
30 and convincing evidence, that reunification is in the best interest  
31 of the child.

32 In addition, the court shall not order reunification in any situation  
33 described in paragraph (5) of subdivision (b) unless it finds that,  
34 based on competent testimony, those services are likely to prevent  
35 reabuse or continued neglect of the child or that failure to try  
36 reunification will be detrimental to the child because the child is  
37 closely and positively attached to that parent. The social worker  
38 shall investigate the circumstances leading to the removal of the  
39 child and advise the court whether there are circumstances that  
40 indicate that reunification is likely to be successful or unsuccessful

1 and whether failure to order reunification is likely to be detrimental  
2 to the child.

3 The failure of the parent to respond to previous services, the fact  
4 that the child was abused while the parent was under the influence  
5 of drugs or alcohol, a past history of violent behavior, or testimony  
6 by a competent professional that the parent's behavior is unlikely  
7 to be changed by services are among the factors indicating that  
8 reunification services are unlikely to be successful. The fact that  
9 a parent or guardian is no longer living with an individual who  
10 severely abused the child may be considered in deciding that  
11 reunification services are likely to be successful, provided that the  
12 court shall consider any pattern of behavior on the part of the parent  
13 that has exposed the child to repeated abuse.

14 (d) If reunification services are not ordered pursuant to  
15 paragraph (1) of subdivision (b) and the whereabouts of a parent  
16 become known within six months of the out-of-home placement  
17 of the child, the court shall order the social worker to provide  
18 family reunification services in accordance with this subdivision.

19 (e) (1) If the parent or guardian is incarcerated or  
20 institutionalized, the court shall order reasonable services unless  
21 the court determines, by clear and convincing evidence, those  
22 services would be detrimental to the child. In determining  
23 detriment, the court shall consider the age of the child, the degree  
24 of parent-child bonding, the length of the sentence, the length and  
25 nature of the treatment, the nature of the crime or illness, the degree  
26 of detriment to the child if services are not offered and, for children  
27 10 years of age or older, the child's attitude toward the  
28 implementation of family reunification services, the likelihood of  
29 the parent's discharge from incarceration or institutionalization  
30 within the reunification time limitations described in subdivision  
31 (a), and any other appropriate factors. In determining the content  
32 of reasonable services, the court shall consider the particular  
33 barriers to an incarcerated or otherwise institutionalized parent's  
34 access to those court-mandated services and ability to maintain  
35 contact with his or her child, and shall document this information  
36 in the child's case plan. Reunification services are subject to the  
37 applicable time limitations imposed in subdivision (a). Services  
38 may include, but shall not be limited to, all of the following:

39 (A) Maintaining contact between the parent and child through  
40 collect telephone calls.

1 (B) Transportation services, where appropriate.

2 (C) Visitation services, where appropriate.

3 (D) Reasonable services to extended family members or foster  
4 parents providing care for the child if the services are not  
5 detrimental to the child.

6 An incarcerated parent may be required to attend counseling,  
7 parenting classes, or vocational training programs as part of the  
8 reunification service plan if actual access to these services is  
9 provided. The social worker shall document in the child's case  
10 plan the particular barriers to an incarcerated or institutionalized  
11 parent's access to those court-mandated services and ability to  
12 maintain contact with his or her child.

13 (2) The presiding judge of the juvenile court of each county  
14 may convene representatives of the county welfare department,  
15 the sheriff's department, and other appropriate entities for the  
16 purpose of developing and entering into protocols for ensuring the  
17 notification, transportation, and presence of an incarcerated or  
18 institutionalized parent at all court hearings involving proceedings  
19 affecting the child pursuant to Section 2625 of the Penal Code.  
20 The county welfare department shall utilize the prisoner locator  
21 system developed by the Department of Corrections and  
22 Rehabilitation to facilitate timely and effective notice of hearings  
23 for incarcerated parents.

24 (3) Notwithstanding any other provision of law, if the  
25 incarcerated parent is a woman seeking to participate in the  
26 community treatment program operated by the Department of  
27 Corrections and Rehabilitation pursuant to Chapter 4.8  
28 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter  
29 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal  
30 Code, the court shall determine whether the parent's participation  
31 in a program is in the child's best interest and whether it is suitable  
32 to meet the needs of the parent and child.

33 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),  
34 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or  
35 paragraph (1) of subdivision (e), does not order reunification  
36 services, it shall, at the dispositional hearing, that shall include a  
37 permanency hearing, determine if a hearing under Section 366.26  
38 shall be set in order to determine whether adoption, guardianship,  
39 or long-term foster care, or in the case of an Indian child, in  
40 consultation with the child's tribe, tribal customary adoption, is

1 the most appropriate plan for the child, and shall consider in-state  
2 and out-of-state placement options. If the court so determines, it  
3 shall conduct the hearing pursuant to Section 366.26 within 120  
4 days after the dispositional hearing. However, the court shall not  
5 schedule a hearing so long as the other parent is being provided  
6 reunification services pursuant to subdivision (a). The court may  
7 continue to permit the parent to visit the child unless it finds that  
8 visitation would be detrimental to the child.

9 (g) (1) Whenever a court orders that a hearing shall be held  
10 pursuant to Section 366.26, including, when, in consultation with  
11 the child's tribe, tribal customary adoption is recommended, it  
12 shall direct the agency supervising the child and the licensed county  
13 adoption agency, or the State Department of Social Services when  
14 it is acting as an adoption agency in counties that are not served  
15 by a county adoption agency, to prepare an assessment that shall  
16 include:

17 (A) Current search efforts for an absent parent or parents and  
18 notification of a noncustodial parent in the manner provided for  
19 in Section 291.

20 (B) A review of the amount of and nature of any contact between  
21 the child and his or her parents and other members of his or her  
22 extended family since the time of placement. Although the  
23 extended family of each child shall be reviewed on a case-by-case  
24 basis, "extended family" for the purpose of this subparagraph shall  
25 include, but not be limited to, the child's siblings, grandparents,  
26 aunts, and uncles.

27 (C) An evaluation of the child's medical, developmental,  
28 scholastic, mental, and emotional status.

29 (D) A preliminary assessment of the eligibility and commitment  
30 of any identified prospective adoptive parent or guardian, including  
31 a prospective tribal customary adoptive parent, particularly the  
32 caretaker, to include a social history, including screening for  
33 criminal records and prior referrals for child abuse or neglect, the  
34 capability to meet the child's needs, and the understanding of the  
35 legal and financial rights and responsibilities of adoption and  
36 guardianship. If a proposed guardian is a relative of the minor, the  
37 assessment shall also consider, but need not be limited to, all of  
38 the factors specified in subdivision (a) of Section 361.3 and in  
39 Section 361.4. As used in this subparagraph, "relative" means an  
40 adult who is related to the minor by blood, adoption, or affinity

1 within the fifth degree of kinship, including stepparents,  
2 stepsiblings, and all relatives whose status is preceded by the words  
3 “great,” “great-great,” or “grand,” or the spouse of any of those  
4 persons even if the marriage was terminated by death or  
5 dissolution.

6 (E) The relationship of the child to any identified prospective  
7 adoptive parent or guardian, including a prospective tribal  
8 customary parent, the duration and character of the relationship,  
9 the degree of attachment of the child to the prospective relative  
10 guardian or adoptive parent, the relative’s or adoptive parent’s  
11 strong commitment to caring permanently for the child, the  
12 motivation for seeking adoption or guardianship, a statement from  
13 the child concerning placement and the adoption or guardianship,  
14 and whether the child over 12 years of age has been consulted  
15 about the proposed relative guardianship arrangements, unless the  
16 child’s age or physical, emotional, or other condition precludes  
17 his or her meaningful response, and if so, a description of the  
18 condition.

19 (F) An analysis of the likelihood that the child will be adopted  
20 if parental rights are terminated.

21 (G) In the case of an Indian child, in addition to subparagraphs  
22 (A) to (F), inclusive, an assessment of the likelihood that the child  
23 will be adopted, when, in consultation with the child’s tribe, a  
24 customary tribal adoption, as defined in Section 366.24, is  
25 recommended. If tribal customary adoption is recommended, the  
26 assessment shall include an analysis of both of the following:

27 (i) Whether tribal customary adoption would or would not be  
28 detrimental to the Indian child and the reasons for reaching that  
29 conclusion.

30 (ii) Whether the Indian child cannot or should not be returned  
31 to the home of the Indian parent or Indian custodian and the reasons  
32 for reaching that conclusion.

33 (2) (A) A relative caregiver’s preference for legal guardianship  
34 over adoption, if it is due to circumstances that do not include an  
35 unwillingness to accept legal or financial responsibility for the  
36 child, shall not constitute the sole basis for recommending removal  
37 of the child from the relative caregiver for purposes of adoptive  
38 placement.

39 (B) A relative caregiver shall be given information regarding  
40 the permanency options of guardianship and adoption, including



1 the long-term benefits and consequences of each option, prior to  
2 establishing legal guardianship or pursuing adoption.

3 (h) If, at any hearing held pursuant to Section 366.26, a  
4 guardianship is established for the minor with an approved relative  
5 caregiver and juvenile court dependency is subsequently dismissed,  
6 the minor shall be eligible for aid under the Kin-GAP Program as  
7 provided for in Article 4.5 (commencing with Section 11360) or  
8 Article 4.7 (commencing with Section 11385) of Chapter 2, as  
9 applicable.

10 (i) In determining whether reunification services will benefit  
11 the child pursuant to paragraph (6) or (7) of subdivision (b), the  
12 court shall consider any information it deems relevant, including  
13 the following factors:

14 (1) The specific act or omission comprising the severe sexual  
15 abuse or the severe physical harm inflicted on the child or the  
16 child's sibling or half sibling.

17 (2) The circumstances under which the abuse or harm was  
18 inflicted on the child or the child's sibling or half sibling.

19 (3) The severity of the emotional trauma suffered by the child  
20 or the child's sibling or half sibling.

21 (4) Any history of abuse of other children by the offending  
22 parent or guardian.

23 (5) The likelihood that the child may be safely returned to the  
24 care of the offending parent or guardian within 12 months with no  
25 continuing supervision.

26 (6) Whether or not the child desires to be reunified with the  
27 offending parent or guardian.

28 (j) The court shall read into the record the basis for a finding of  
29 severe sexual abuse or the infliction of severe physical harm under  
30 paragraph (6) of subdivision (b), and shall also specify the factual  
31 findings used to determine that the provision of reunification  
32 services to the offending parent or guardian would not benefit the  
33 child.

34 (k) This section shall remain in effect only until January 1, 2014,  
35 and as of that date is repealed, unless a later enacted statute, that  
36 is enacted before January 1, 2014, deletes or extends that date.

37 SEC. 14. Section 361.5 of the Welfare and Institutions Code,  
38 as added by Section 7 of Chapter 287 of the Statutes of 2009, is  
39 amended to read:

1     361.5. (a) Except as provided in subdivision (b), or when the  
2     parent has voluntarily relinquished the child and the relinquishment  
3     has been filed with the State Department of Social Services, or  
4     upon the establishment of an order of guardianship pursuant to  
5     Section 360, whenever a child is removed from a parent's or  
6     guardian's custody, the juvenile court shall order the social worker  
7     to provide child welfare services to the child and the child's mother  
8     and statutorily presumed father or guardians. Upon a finding and  
9     declaration of paternity by the juvenile court or proof of a prior  
10    declaration of paternity by any court of competent jurisdiction, the  
11    juvenile court may order services for the child and the biological  
12    father, if the court determines that the services will benefit the  
13    child.

14    (1) Family reunification services, when provided, shall be  
15    provided as follows:

16    (A) Except as otherwise provided in subparagraph (C), for a  
17    child who, on the date of initial removal from the physical custody  
18    of his or her parent or guardian, was three years of age or older,  
19    court-ordered services shall be provided beginning with the  
20    dispositional hearing and ending 12 months after the date the child  
21    entered foster care as defined in Section 361.49, unless the child  
22    is returned to the home of the parent or guardian.

23    (B) For a child who, on the date of initial removal from the  
24    physical custody of his or her parent or guardian, was under three  
25    years of age, court-ordered services shall be provided for a period  
26    of six months from the dispositional hearing as provided in  
27    subdivision (e) of Section 366.21, but no longer than 12 months  
28    from the date the child entered foster care as defined in Section  
29    361.49 unless the child is returned to the home of the parent or  
30    guardian.

31    (C) For the purpose of placing and maintaining a sibling group  
32    together in a permanent home should reunification efforts fail, for  
33    a child in a sibling group whose members were removed from  
34    parental custody at the same time, and in which one member of  
35    the sibling group was under three years of age on the date of initial  
36    removal from the physical custody of his or her parent or guardian,  
37    court-ordered services for some or all of the sibling group may be  
38    limited as set forth in subparagraph (B). For the purposes of this  
39    paragraph, "a sibling group" shall mean two or more children who  
40    are related to each other as full or half siblings.

1 (2) Any motion to terminate court-ordered reunification services  
2 prior to the hearing set pursuant to subdivision (f) of Section 366.21  
3 for a child described by subparagraph (A) of paragraph (1), or  
4 prior to the hearing set pursuant to subdivision (e) of Section  
5 366.21 for a child described by subparagraph (B) or (C) of  
6 paragraph (1), shall be made pursuant to the requirements set forth  
7 in subdivision (c) of Section 388. A motion to terminate  
8 court-ordered reunification services shall not be required at the  
9 hearing set pursuant to subdivision (e) of Section 366.21 if the  
10 court finds by clear and convincing evidence one of the following:

11 (A) That the child was removed initially under subdivision (g)  
12 of Section 300 and the whereabouts of the parent are still unknown.

13 (B) That the parent has failed to contact and visit the child.

14 (C) That the parent has been convicted of a felony indicating  
15 parental unfitness.

16 (3) Notwithstanding subparagraphs (A), (B), and (C) of  
17 paragraph (1), court-ordered services may be extended up to a  
18 maximum time period not to exceed 18 months after the date the  
19 child was originally removed from physical custody of his or her  
20 parent or guardian if it can be shown, at the hearing held pursuant  
21 to subdivision (f) of Section 366.21, that the permanent plan for  
22 the child is that he or she will be returned and safely maintained  
23 in the home within the extended time period. The court shall extend  
24 the time period only if it finds that there is a substantial probability  
25 that the child will be returned to the physical custody of his or her  
26 parent or guardian within the extended time period or that  
27 reasonable services have not been provided to the parent or  
28 guardian. In determining whether court-ordered services may be  
29 extended, the court shall consider the special circumstances of an  
30 incarcerated or institutionalized parent or parents, or parent or  
31 parents court-ordered to a residential substance abuse treatment  
32 program, including, but not limited to, barriers to the parent's or  
33 guardian's access to services and ability to maintain contact with  
34 his or her child. The court shall also consider, among other factors,  
35 good faith efforts that the parent or guardian has made to maintain  
36 contact with the child. If the court extends the time period, the  
37 court shall specify the factual basis for its conclusion that there is  
38 a substantial probability that the child will be returned to the  
39 physical custody of his or her parent or guardian within the  
40 extended time period. The court also shall make findings pursuant

1 to subdivision (a) of Section 366 and subdivision (e) of Section  
2 358.1.

3 When counseling or other treatment services are ordered, the  
4 parent or guardian shall be ordered to participate in those services,  
5 unless the parent's or guardian's participation is deemed by the  
6 court to be inappropriate or potentially detrimental to the child, or  
7 unless a parent or guardian is incarcerated and the corrections  
8 facility in which he or she is incarcerated does not provide access  
9 to the treatment services ordered by the court. Physical custody of  
10 the child by the parents or guardians during the applicable time  
11 period under subparagraph (A), (B), or (C) of paragraph (1) shall  
12 not serve to interrupt the running of the period. If at the end of the  
13 applicable time period, a child cannot be safely returned to the  
14 care and custody of a parent or guardian without court supervision,  
15 but the child clearly desires contact with the parent or guardian,  
16 the court shall take the child's desire into account in devising a  
17 permanency plan.

18 In cases where the child was under three years of age on the date  
19 of the initial removal from the physical custody of his or her parent  
20 or guardian or is a member of a sibling group as described in  
21 subparagraph (C) of paragraph (1), the court shall inform the parent  
22 or guardian that the failure of the parent or guardian to participate  
23 regularly in any court-ordered treatment programs or to cooperate  
24 or avail himself or herself of services provided as part of the child  
25 welfare services case plan may result in a termination of efforts  
26 to reunify the family after six months. The court shall inform the  
27 parent or guardian of the factors used in subdivision (e) of Section  
28 366.21 to determine whether to limit services to six months for  
29 some or all members of a sibling group as described in  
30 subparagraph (C) of paragraph (1).

31 (4) Notwithstanding paragraph (3), court-ordered services may  
32 be extended up to a maximum time period not to exceed 24 months  
33 after the date the child was originally removed from physical  
34 custody of his or her parent or guardian if it is shown, at the hearing  
35 held pursuant to subdivision (b) of Section 366.22, that the  
36 permanent plan for the child is that he or she will be returned and  
37 safely maintained in the home within the extended time period.  
38 The court shall extend the time period only if it finds that it is in  
39 the child's best interest to have the time period extended and that  
40 there is a substantial probability that the child will be returned to

1 the physical custody of his or her parent or guardian who is  
2 described in subdivision (b) of Section 366.22 within the extended  
3 time period, or that reasonable services have not been provided to  
4 the parent or guardian. If the court extends the time period, the  
5 court shall specify the factual basis for its conclusion that there is  
6 a substantial probability that the child will be returned to the  
7 physical custody of his or her parent or guardian within the  
8 extended time period. The court also shall make findings pursuant  
9 to subdivision (a) of Section 366 and subdivision (e) of Section  
10 358.1.

11 When counseling or other treatment services are ordered, the  
12 parent or guardian shall be ordered to participate in those services,  
13 in order for substantial probability to be found. Physical custody  
14 of the child by the parents or guardians during the applicable time  
15 period under subparagraph (A), (B), or (C) of paragraph (1) shall  
16 not serve to interrupt the running of the period. If at the end of the  
17 applicable time period, the child cannot be safely returned to the  
18 care and custody of a parent or guardian without court supervision,  
19 but the child clearly desires contact with the parent or guardian,  
20 the court shall take the child's desire into account in devising a  
21 permanency plan.

22 Except in cases where, pursuant to subdivision (b), the court  
23 does not order reunification services, the court shall inform the  
24 parent or parents of Section 366.26 and shall specify that the  
25 parent's or parents' parental rights may be terminated.

26 (b) Reunification services need not be provided to a parent or  
27 guardian described in this subdivision when the court finds, by  
28 clear and convincing evidence, any of the following:

29 (1) That the whereabouts of the parent or guardian is unknown.  
30 A finding pursuant to this paragraph shall be supported by an  
31 affidavit or by proof that a reasonably diligent search has failed  
32 to locate the parent or guardian. The posting or publication of  
33 notices is not required in that search.

34 (2) That the parent or guardian is suffering from a mental  
35 disability that is described in Chapter 2 (commencing with Section  
36 7820) of Part 4 of Division 12 of the Family Code and that renders  
37 him or her incapable of utilizing those services.

38 (3) That the child or a sibling of the child has been previously  
39 adjudicated a dependent pursuant to any subdivision of Section  
40 300 as a result of physical or sexual abuse, that following that

1 adjudication the child had been removed from the custody of his  
2 or her parent or guardian pursuant to Section 361, that the child  
3 has been returned to the custody of the parent or guardian from  
4 whom the child had been taken originally, and that the child is  
5 being removed pursuant to Section 361, due to additional physical  
6 or sexual abuse.

7 (4) That the parent or guardian of the child has caused the death  
8 of another child through abuse or neglect.

9 (5) That the child was brought within the jurisdiction of the  
10 court under subdivision (e) of Section 300 because of the conduct  
11 of that parent or guardian.

12 (6) That the child has been adjudicated a dependent pursuant  
13 to any subdivision of Section 300 as a result of severe sexual abuse  
14 or the infliction of severe physical harm to the child, a sibling, or  
15 a half sibling by a parent or guardian, as defined in this subdivision,  
16 and the court makes a factual finding that it would not benefit the  
17 child to pursue reunification services with the offending parent or  
18 guardian.

19 A finding of severe sexual abuse, for the purposes of this  
20 subdivision, may be based on, but is not limited to, sexual  
21 intercourse, or stimulation involving genital-genital, oral-genital,  
22 anal-genital, or oral-anal contact, whether between the parent or  
23 guardian and the child or a sibling or half sibling of the child, or  
24 between the child or a sibling or half sibling of the child and  
25 another person or animal with the actual or implied consent of the  
26 parent or guardian; or the penetration or manipulation of the  
27 child's, sibling's, or half sibling's genital organs or rectum by any  
28 animate or inanimate object for the sexual gratification of the  
29 parent or guardian, or for the sexual gratification of another person  
30 with the actual or implied consent of the parent or guardian.

31 A finding of the infliction of severe physical harm, for the  
32 purposes of this subdivision, may be based on, but is not limited  
33 to, deliberate and serious injury inflicted to or on a child's body  
34 or the body of a sibling or half sibling of the child by an act or  
35 omission of the parent or guardian, or of another individual or  
36 animal with the consent of the parent or guardian; deliberate and  
37 torturous confinement of the child, sibling, or half sibling in a  
38 closed space; or any other torturous act or omission that would be  
39 reasonably understood to cause serious emotional damage.

1 (7) That the parent is not receiving reunification services for a  
2 sibling or a half sibling of the child pursuant to paragraph (3), (5),  
3 or (6).

4 (8) That the child was conceived by means of the commission  
5 of an offense listed in Section 288 or 288.5 of the Penal Code, or  
6 by an act committed outside of this state that, if committed in this  
7 state, would constitute one of those offenses. This paragraph only  
8 applies to the parent who committed the offense or act.

9 (9) That the child has been found to be a child described in  
10 subdivision (g) of Section 300, that the parent or guardian of the  
11 child willfully abandoned the child, and the court finds that the  
12 abandonment itself constituted a serious danger to the child; or  
13 that the parent or other person having custody of the child  
14 voluntarily surrendered physical custody of the child pursuant to  
15 Section 1255.7 of the Health and Safety Code. For the purposes  
16 of this paragraph, “serious danger” means that without the  
17 intervention of another person or agency, the child would have  
18 sustained severe or permanent disability, injury, illness, or death.  
19 For purposes of this paragraph, “willful abandonment” shall not  
20 be construed as actions taken in good faith by the parent without  
21 the intent of placing the child in serious danger.

22 (10) That the court ordered termination of reunification services  
23 for any siblings or half siblings of the child because the parent or  
24 guardian failed to reunify with the sibling or half sibling after the  
25 sibling or half sibling had been removed from that parent or  
26 guardian pursuant to Section 361 and that parent or guardian is  
27 the same parent or guardian described in subdivision (a) and that,  
28 according to the findings of the court, this parent or guardian has  
29 not subsequently made a reasonable effort to treat the problems  
30 that led to removal of the sibling or half sibling of that child from  
31 that parent or guardian.

32 (11) That the parental rights of a parent over any sibling or half  
33 sibling of the child had been permanently severed, and this parent  
34 is the same parent described in subdivision (a), and that, according  
35 to the findings of the court, this parent has not subsequently made  
36 a reasonable effort to treat the problems that led to removal of the  
37 sibling or half sibling of that child from the parent.

38 (12) That the parent or guardian of the child has been convicted  
39 of a violent felony, as defined in subdivision (c) of Section 667.5  
40 of the Penal Code.

1 (13) That the parent or guardian of the child has a history of  
2 extensive, abusive, and chronic use of drugs or alcohol and has  
3 resisted prior court-ordered treatment for this problem during a  
4 three-year period immediately prior to the filing of the petition  
5 that brought that child to the court's attention, or has failed or  
6 refused to comply with a program of drug or alcohol treatment  
7 described in the case plan required by Section 358.1 on at least  
8 two prior occasions, even though the programs identified were  
9 available and accessible.

10 (14) That the parent or guardian of the child has advised the  
11 court that he or she is not interested in receiving family  
12 maintenance or family reunification services or having the child  
13 returned to or placed in his or her custody and does not wish to  
14 receive family maintenance or reunification services.

15 The parent or guardian shall be represented by counsel and shall  
16 execute a waiver of services form to be adopted by the Judicial  
17 Council. The court shall advise the parent or guardian of any right  
18 to services and of the possible consequences of a waiver of  
19 services, including the termination of parental rights and placement  
20 of the child for adoption. The court shall not accept the waiver of  
21 services unless it states on the record its finding that the parent or  
22 guardian has knowingly and intelligently waived the right to  
23 services.

24 (15) That the parent or guardian has on one or more occasions  
25 willfully abducted the child or child's sibling or half sibling from  
26 his or her placement and refused to disclose the child's or child's  
27 sibling's or half sibling's whereabouts, refused to return physical  
28 custody of the child or child's sibling or half sibling to his or her  
29 placement, or refused to return physical custody of the child or  
30 child's sibling or half sibling to the social worker.

31 (c) In deciding whether to order reunification in any case in  
32 which this section applies, the court shall hold a dispositional  
33 hearing. The social worker shall prepare a report that discusses  
34 whether reunification services shall be provided. When it is alleged,  
35 pursuant to paragraph (2) of subdivision (b), that the parent is  
36 incapable of utilizing services due to mental disability, the court  
37 shall order reunification services unless competent evidence from  
38 mental health professionals establishes that, even with the provision  
39 of services, the parent is unlikely to be capable of adequately caring  
40 for the child within the time limits specified in subdivision (a).



1 The court shall not order reunification for a parent or guardian  
2 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),  
3 (13), (14), or (15) of subdivision (b) unless the court finds, by clear  
4 and convincing evidence, that reunification is in the best interest  
5 of the child.

6 In addition, the court shall not order reunification in any situation  
7 described in paragraph (5) of subdivision (b) unless it finds that,  
8 based on competent testimony, those services are likely to prevent  
9 reabuse or continued neglect of the child or that failure to try  
10 reunification will be detrimental to the child because the child is  
11 closely and positively attached to that parent. The social worker  
12 shall investigate the circumstances leading to the removal of the  
13 child and advise the court whether there are circumstances that  
14 indicate that reunification is likely to be successful or unsuccessful  
15 and whether failure to order reunification is likely to be detrimental  
16 to the child.

17 The failure of the parent to respond to previous services, the fact  
18 that the child was abused while the parent was under the influence  
19 of drugs or alcohol, a past history of violent behavior, or testimony  
20 by a competent professional that the parent's behavior is unlikely  
21 to be changed by services are among the factors indicating that  
22 reunification services are unlikely to be successful. The fact that  
23 a parent or guardian is no longer living with an individual who  
24 severely abused the child may be considered in deciding that  
25 reunification services are likely to be successful, provided that the  
26 court shall consider any pattern of behavior on the part of the parent  
27 that has exposed the child to repeated abuse.

28 (d) If reunification services are not ordered pursuant to  
29 paragraph (1) of subdivision (b) and the whereabouts of a parent  
30 become known within six months of the out-of-home placement  
31 of the child, the court shall order the social worker to provide  
32 family reunification services in accordance with this subdivision.

33 (e) (1) If the parent or guardian is incarcerated or  
34 institutionalized, the court shall order reasonable services unless  
35 the court determines, by clear and convincing evidence, those  
36 services would be detrimental to the child. In determining  
37 detriment, the court shall consider the age of the child, the degree  
38 of parent-child bonding, the length of the sentence, the length and  
39 nature of the treatment, the nature of the crime or illness, the degree  
40 of detriment to the child if services are not offered and, for children

1 10 years of age or older, the child's attitude toward the  
2 implementation of family reunification services, the likelihood of  
3 the parent's discharge from incarceration or institutionalization  
4 within the reunification time limitations described in subdivision  
5 (a), and any other appropriate factors. In determining the content  
6 of reasonable services, the court shall consider the particular  
7 barriers to an incarcerated or otherwise institutionalized parent's  
8 access to those court-mandated services and ability to maintain  
9 contact with his or her child, and shall document this information  
10 in the child's case plan. Reunification services are subject to the  
11 applicable time limitations imposed in subdivision (a). Services  
12 may include, but shall not be limited to, all of the following:

13 (A) Maintaining contact between the parent and child through  
14 collect telephone calls.

15 (B) Transportation services, where appropriate.

16 (C) Visitation services, where appropriate.

17 (D) Reasonable services to extended family members or foster  
18 parents providing care for the child if the services are not  
19 detrimental to the child.

20 An incarcerated parent may be required to attend counseling,  
21 parenting classes, or vocational training programs as part of the  
22 reunification service plan if actual access to these services is  
23 provided. The social worker shall document in the child's case  
24 plan the particular barriers to an incarcerated or institutionalized  
25 parent's access to those court-mandated services and ability to  
26 maintain contact with his or her child.

27 (2) The presiding judge of the juvenile court of each county  
28 may convene representatives of the county welfare department,  
29 the sheriff's department, and other appropriate entities for the  
30 purpose of developing and entering into protocols for ensuring the  
31 notification, transportation, and presence of an incarcerated or  
32 institutionalized parent at all court hearings involving proceedings  
33 affecting the child pursuant to Section 2625 of the Penal Code.  
34 The county welfare department shall utilize the prisoner locator  
35 system developed by the Department of Corrections and  
36 Rehabilitation to facilitate timely and effective notice of hearings  
37 for incarcerated parents.

38 (3) Notwithstanding any other provision of law, if the  
39 incarcerated parent is a woman seeking to participate in the  
40 community treatment program operated by the Department of

1 Corrections and Rehabilitation pursuant to Chapter 4.8  
2 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter  
3 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal  
4 Code, the court shall determine whether the parent's participation  
5 in a program is in the child's best interest and whether it is suitable  
6 to meet the needs of the parent and child.

7 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),  
8 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or  
9 paragraph (1) of subdivision (e), does not order reunification  
10 services, it shall, at the dispositional hearing, that shall include a  
11 permanency hearing, determine if a hearing under Section 366.26  
12 shall be set in order to determine whether adoption, guardianship,  
13 or long-term foster care is the most appropriate plan for the child,  
14 and shall consider in-state and out-of-state placement options. If  
15 the court so determines, it shall conduct the hearing pursuant to  
16 Section 366.26 within 120 days after the dispositional hearing.  
17 However, the court shall not schedule a hearing so long as the  
18 other parent is being provided reunification services pursuant to  
19 subdivision (a). The court may continue to permit the parent to  
20 visit the child unless it finds that visitation would be detrimental  
21 to the child.

22 (g) (1) Whenever a court orders that a hearing shall be held  
23 pursuant to Section 366.26, it shall direct the agency supervising  
24 the child and the licensed county adoption agency, or the State  
25 Department of Social Services when it is acting as an adoption  
26 agency in counties that are not served by a county adoption agency,  
27 to prepare an assessment that shall include:

28 (A) Current search efforts for an absent parent or parents and  
29 notification of a noncustodial parent in the manner provided for  
30 in Section 291.

31 (B) A review of the amount of and nature of any contact between  
32 the child and his or her parents and other members of his or her  
33 extended family since the time of placement. Although the  
34 extended family of each child shall be reviewed on a case-by-case  
35 basis, "extended family" for the purpose of this subparagraph shall  
36 include, but not be limited to, the child's siblings, grandparents,  
37 aunts, and uncles.

38 (C) An evaluation of the child's medical, developmental,  
39 scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history, including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4. As used in this subparagraph, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(E) The relationship of the child to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child over 12 years of age has been consulted about the proposed relative guardianship arrangements unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

1 (h) If, at any hearing held pursuant to Section 366.26, a  
2 guardianship is established for the minor with an approved relative  
3 caregiver and juvenile court dependency is subsequently dismissed,  
4 the minor shall be eligible for aid under the Kin-GAP Program as  
5 provided for in Article 4.5 (commencing with Section 11360) or  
6 Article 4.7 (commencing with Section 11385) of Chapter 2, as  
7 applicable.

8 (i) In determining whether reunification services will benefit  
9 the child pursuant to paragraph (6) or (7) of subdivision (b), the  
10 court shall consider any information it deems relevant, including  
11 the following factors:

12 (1) The specific act or omission comprising the severe sexual  
13 abuse or the severe physical harm inflicted on the child or the  
14 child's sibling or half sibling.

15 (2) The circumstances under which the abuse or harm was  
16 inflicted on the child or the child's sibling or half sibling.

17 (3) The severity of the emotional trauma suffered by the child  
18 or the child's sibling or half sibling.

19 (4) Any history of abuse of other children by the offending  
20 parent or guardian.

21 (5) The likelihood that the child may be safely returned to the  
22 care of the offending parent or guardian within 12 months with no  
23 continuing supervision.

24 (6) Whether or not the child desires to be reunified with the  
25 offending parent or guardian.

26 (j) The court shall read into the record the basis for a finding of  
27 severe sexual abuse or the infliction of severe physical harm under  
28 paragraph (6) of subdivision (b), and shall also specify the factual  
29 findings used to determine that the provision of reunification  
30 services to the offending parent or guardian would not benefit the  
31 child.

32 (k) This section shall become operative on January 1, 2014.

33 SEC. 15. Section 366 of the Welfare and Institutions Code is  
34 amended to read:

35 366. (a) (1) The status of every dependent child in foster care  
36 shall be reviewed periodically as determined by the court but no  
37 less frequently than once every six months, as calculated from the  
38 date of the original dispositional hearing, until the hearing  
39 described in Section 366.26 is completed. The court shall consider  
40 the safety of the child and shall determine all of the following:

1 (A) The continuing necessity for and appropriateness of the  
2 placement.

3 (B) The extent of the agency's compliance with the case plan  
4 in making reasonable efforts, or, in the case of an Indian child,  
5 active efforts as described in Section 361.7, to return the child to  
6 a safe home and to complete any steps necessary to finalize the  
7 permanent placement of the child, including efforts to maintain  
8 relationships between a child who is 10 years of age or older and  
9 who has been in an out-of-home placement for six months or  
10 longer, and individuals other than the child's siblings who are  
11 important to the child, consistent with the child's best interests.

12 (C) Whether there should be any limitation on the right of the  
13 parent or guardian to make educational decisions for the child.  
14 That limitation shall be specifically addressed in the court order  
15 and may not exceed those necessary to protect the child. Whenever  
16 the court specifically limits the right of the parent or guardian to  
17 make educational decisions for the child, the court shall at the  
18 same time appoint a responsible adult to make educational  
19 decisions for the child pursuant to Section 361.

20 (D) (i) Whether the child has other siblings under the court's  
21 jurisdiction, and, if any siblings exist, all of the following:

22 (I) The nature of the relationship between the child and his or  
23 her siblings.

24 (II) The appropriateness of developing or maintaining the sibling  
25 relationships pursuant to Section 16002.

26 (III) If the siblings are not placed together in the same home,  
27 why the siblings are not placed together and what efforts are being  
28 made to place the siblings together, or why those efforts are not  
29 appropriate.

30 (IV) If the siblings are not placed together, the frequency and  
31 nature of the visits between siblings.

32 (V) The impact of the sibling relationships on the child's  
33 placement and planning for legal permanence.

34 (VI) The continuing need to suspend sibling interaction, if  
35 applicable, pursuant to subdivision (c) of Section 16002.

36 (ii) The factors the court may consider in making a determination  
37 regarding the nature of the child's sibling relationships may  
38 include, but are not limited to, whether the siblings were raised  
39 together in the same home, whether the siblings have shared  
40 significant common experiences or have existing close and strong

1 bonds, whether either sibling expresses a desire to visit or live with  
2 his or her sibling, as applicable, and whether ongoing contact is  
3 in the child's best emotional interests.

4 (E) The extent of progress that has been made toward alleviating  
5 or mitigating the causes necessitating placement in foster care.

6 (F) On and after January 1, 2012, if the review hearing is the  
7 last review hearing to be held before the child attains 18 years of  
8 age, the court shall ensure all of the following:

9 (i) That the child's transitional independent living case plan  
10 includes a plan for the child to satisfy one or more of the criteria  
11 set forth in subdivision (b) of Section 11403, so that the child is  
12 eligible to remain a nonminor dependent.

13 (ii) That the child has been informed of his or her right to seek  
14 termination of dependency jurisdiction pursuant to Section 391,  
15 and understands the potential benefits of continued dependency.

16 (iii) That the child is informed of his or her right to have  
17 dependency reinstated pursuant to subdivision (e) of Section 388,  
18 and understands the potential benefits of continued dependency.

19 (2) The court shall project a likely date by which the child may  
20 be returned to and safely maintained in the home or placed for  
21 adoption, legal guardianship, or in another planned permanent  
22 living arrangement.

23 (b) Subsequent to the hearing, periodic reviews of each child  
24 in foster care shall be conducted pursuant to the requirements of  
25 Sections 366.3 and 16503.

26 (c) If the child has been placed out of state, each review  
27 described in subdivision (a) and any reviews conducted pursuant  
28 to Sections 366.3 and 16503 shall also address whether the  
29 out-of-state placement continues to be the most appropriate  
30 placement selection and in the best interests of the child.

31 (d) A child may not be placed in an out-of-state group home,  
32 or remain in an out-of-state group home, unless the group home  
33 is in compliance with Section 7911.1 of the Family Code.

34 (e) The implementation and operation of the amendments to  
35 subparagraph (B) of paragraph (1) of subdivision (a) enacted at  
36 the 2005–06 Regular Session shall be subject to appropriation  
37 through the budget process and by phase, as provided in Section  
38 366.35.

39 (f) On and after January 1, 2012, the status review of every  
40 nonminor dependent, as defined in subdivision (v) of Section

1 11400, shall be conducted pursuant to the requirements of Sections  
2 366.3 and 16503 until dependency jurisdiction is terminated  
3 pursuant to Section 391. The review shall include all of the issues  
4 set forth in subdivision (a), except subparagraph (C) of paragraph  
5 (1) of subdivision (a), and shall be conducted in a manner that  
6 respects the nonminor dependent's status as a legal adult, be  
7 focused on the goals and services described in the nonminor  
8 dependent's transitional independent living case plan, including  
9 efforts made to achieve permanence, including maintaining or  
10 obtaining permanent connections with caring and committed adults,  
11 and attended as appropriate by additional participants invited by  
12 the nonminor dependent. An appropriate placement for a nonminor  
13 dependent may include a supervised independent living setting,  
14 as described in Section 11400.

15 SEC. 16. Section 366.21 of the Welfare and Institutions Code,  
16 as amended by Section 8 of Chapter 287 of the Statutes of 2009,  
17 is amended to read:

18 366.21. (a) Every hearing conducted by the juvenile court  
19 reviewing the status of a dependent child shall be placed on the  
20 appearance calendar. The court shall advise all persons present at  
21 the hearing of the date of the future hearing and of their right to  
22 be present and represented by counsel.

23 (b) Except as provided in Sections 294 and 295, notice of the  
24 hearing shall be provided pursuant to Section 293.

25 (c) At least 10 calendar days prior to the hearing, the social  
26 worker shall file a supplemental report with the court regarding  
27 the services provided or offered to the parent or legal guardian to  
28 enable him or her to assume custody and the efforts made to  
29 achieve legal permanence for the child if efforts to reunify fail,  
30 including, but not limited to, efforts to maintain relationships  
31 between a child who is 10 years of age or older and has been in  
32 out-of-home placement for six months or longer and individuals  
33 who are important to the child, consistent with the child's best  
34 interests; the progress made; and, where relevant, the prognosis  
35 for return of the child to the physical custody of his or her parent  
36 or legal guardian; and shall make his or her recommendation for  
37 disposition. If the child is a member of a sibling group described  
38 in subparagraph (C) of paragraph (1) of subdivision (a) of Section  
39 361.5, the report and recommendation may also take into account  
40 those factors described in subdivision (e) relating to the child's



1 sibling group. If the recommendation is not to return the child to  
2 a parent or legal guardian, the report shall specify why the return  
3 of the child would be detrimental to the child. The social worker  
4 shall provide the parent or legal guardian, counsel for the child,  
5 and any court-appointed child advocate with a copy of the report,  
6 including his or her recommendation for disposition, at least 10  
7 calendar days prior to the hearing. In the case of a child removed  
8 from the physical custody of his or her parent or legal guardian,  
9 the social worker shall, at least 10 calendar days prior to the  
10 hearing, provide a summary of his or her recommendation for  
11 disposition to any foster parents, relative caregivers, and certified  
12 foster parents who have been approved for adoption by the State  
13 Department of Social Services when it is acting as an adoption  
14 agency in counties that are not served by a county adoption agency  
15 or by a licensed county adoption agency, community care facility,  
16 or foster family agency having the physical custody of the child.  
17 The social worker shall include a copy of the Judicial Council  
18 Caregiver Information Form (JV-290) with the summary of  
19 recommendations to the child's foster parents, relative caregivers,  
20 or foster parents approved for adoption, in the caregiver's primary  
21 language when available, along with information on how to file  
22 the form with the court.

23 (d) Prior to any hearing involving a child in the physical custody  
24 of a community care facility or a foster family agency that may  
25 result in the return of the child to the physical custody of his or  
26 her parent or legal guardian, or in adoption or the creation of a  
27 legal guardianship, or in the case of an Indian child, in consultation  
28 with the child's tribe, tribal customary adoption, the facility or  
29 agency shall file with the court a report, or a Judicial Council  
30 Caregiver Information Form (JV-290), containing its  
31 recommendation for disposition. Prior to the hearing involving a  
32 child in the physical custody of a foster parent, a relative caregiver,  
33 or a certified foster parent who has been approved for adoption by  
34 the State Department of Social Services when it is acting as an  
35 adoption agency or by a licensed adoption agency, the foster parent,  
36 relative caregiver, or the certified foster parent who has been  
37 approved for adoption by the State Department of Social Services  
38 when it is acting as an adoption agency in counties that are not  
39 served by a county adoption agency or by a licensed county  
40 adoption agency, may file with the court a report containing his

1 or her recommendation for disposition. The court shall consider  
2 the report and recommendation filed pursuant to this subdivision  
3 prior to determining any disposition.

4 (e) At the review hearing held six months after the initial  
5 dispositional hearing, but no later than 12 months after the date  
6 the child entered foster care as determined in Section 361.49,  
7 whichever occurs earlier, the court shall order the return of the  
8 child to the physical custody of his or her parent or legal guardian  
9 unless the court finds, by a preponderance of the evidence, that  
10 the return of the child to his or her parent or legal guardian would  
11 create a substantial risk of detriment to the safety, protection, or  
12 physical or emotional well-being of the child. The social worker  
13 shall have the burden of establishing that detriment. At the hearing,  
14 the court shall consider the criminal history, obtained pursuant to  
15 paragraph (1) of subdivision (f) of Section 16504.5, of the parent  
16 or legal guardian subsequent to the child's removal to the extent  
17 that the criminal record is substantially related to the welfare of  
18 the child or the parent's or guardian's ability to exercise custody  
19 and control regarding his or her child, provided the parent or legal  
20 guardian agreed to submit fingerprint images to obtain criminal  
21 history information as part of the case plan. The failure of the  
22 parent or legal guardian to participate regularly and make  
23 substantive progress in court-ordered treatment programs shall be  
24 prima facie evidence that return would be detrimental. In making  
25 its determination, the court shall review and consider the social  
26 worker's report and recommendations and the report and  
27 recommendations of any child advocate appointed pursuant to  
28 Section 356.5; and shall consider the efforts or progress, or both,  
29 demonstrated by the parent or legal guardian and the extent to  
30 which he or she availed himself or herself to services provided,  
31 taking into account the particular barriers to an incarcerated or  
32 institutionalized parent or legal guardian's access to those  
33 court-mandated services and ability to maintain contact with his  
34 or her child.

35 Regardless of whether the child is returned to a parent or legal  
36 guardian, the court shall specify the factual basis for its conclusion  
37 that the return would be detrimental or would not be detrimental.  
38 The court also shall make appropriate findings pursuant to  
39 subdivision (a) of Section 366; and, where relevant, shall order  
40 any additional services reasonably believed to facilitate the return

1 of the child to the custody of his or her parent or legal guardian.  
2 The court shall also inform the parent or legal guardian that if the  
3 child cannot be returned home by the 12-month permanency  
4 hearing, a proceeding pursuant to Section 366.26 may be instituted.  
5 This section does not apply in a case where, pursuant to Section  
6 361.5, the court has ordered that reunification services shall not  
7 be provided.

8 If the child was under three years of age on the date of the initial  
9 removal, or is a member of a sibling group described in  
10 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
11 361.5, and the court finds by clear and convincing evidence that  
12 the parent failed to participate regularly and make substantive  
13 progress in a court-ordered treatment plan, the court may schedule  
14 a hearing pursuant to Section 366.26 within 120 days. If, however,  
15 the court finds there is a substantial probability that the child, who  
16 was under three years of age on the date of initial removal or is a  
17 member of a sibling group described in subparagraph (C) of  
18 paragraph (1) of subdivision (a) of Section 361.5, may be returned  
19 to his or her parent or legal guardian within six months or that  
20 reasonable services have not been provided, the court shall continue  
21 the case to the 12-month permanency hearing.

22 For the purpose of placing and maintaining a sibling group  
23 together in a permanent home, the court, in making its  
24 determination to schedule a hearing pursuant to Section 366.26  
25 for some or all members of a sibling group, as described in  
26 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
27 361.5, shall review and consider the social worker's report and  
28 recommendations. Factors the report shall address, and the court  
29 shall consider, may include, but need not be limited to, whether  
30 the sibling group was removed from parental care as a group, the  
31 closeness and strength of the sibling bond, the ages of the siblings,  
32 the appropriateness of maintaining the sibling group together, the  
33 detriment to the child if sibling ties are not maintained, the  
34 likelihood of finding a permanent home for the sibling group,  
35 whether the sibling group is currently placed together in a  
36 preadoptive home or has a concurrent plan goal of legal  
37 permanency in the same home, the wishes of each child whose  
38 age and physical and emotional condition permits a meaningful  
39 response, and the best interest of each child in the sibling group.  
40 The court shall specify the factual basis for its finding that it is in

1 the best interest of each child to schedule a hearing pursuant to  
2 Section 366.26 in 120 days for some or all of the members of the  
3 sibling group.

4 If the child was removed initially under subdivision (g) of  
5 Section 300 and the court finds by clear and convincing evidence  
6 that the whereabouts of the parent are still unknown, or the parent  
7 has failed to contact and visit the child, the court may schedule a  
8 hearing pursuant to Section 366.26 within 120 days. The court  
9 shall take into account any particular barriers to a parent's ability  
10 to maintain contact with his or her child due to the parent's  
11 incarceration or institutionalization. If the court finds by clear and  
12 convincing evidence that the parent has been convicted of a felony  
13 indicating parental unfitness, the court may schedule a hearing  
14 pursuant to Section 366.26 within 120 days.

15 If the child had been placed under court supervision with a  
16 previously noncustodial parent pursuant to Section 361.2, the court  
17 shall determine whether supervision is still necessary. The court  
18 may terminate supervision and transfer permanent custody to that  
19 parent, as provided for by paragraph (1) of subdivision (b) of  
20 Section 361.2.

21 In all other cases, the court shall direct that any reunification  
22 services previously ordered shall continue to be offered to the  
23 parent or legal guardian pursuant to the time periods set forth in  
24 subdivision (a) of Section 361.5, provided that the court may  
25 modify the terms and conditions of those services.

26 If the child is not returned to his or her parent or legal guardian,  
27 the court shall determine whether reasonable services that were  
28 designed to aid the parent or legal guardian in overcoming the  
29 problems that led to the initial removal and the continued custody  
30 of the child have been provided or offered to the parent or legal  
31 guardian. The court shall order that those services be initiated,  
32 continued, or terminated.

33 (f) The permanency hearing shall be held no later than 12  
34 months after the date the child entered foster care, as that date is  
35 determined pursuant to Section 361.49. At the permanency hearing,  
36 the court shall determine the permanent plan for the child, which  
37 shall include a determination of whether the child will be returned  
38 to the child's home and, if so, when, within the time limits of  
39 subdivision (a) of Section 361.5. The court shall order the return  
40 of the child to the physical custody of his or her parent or legal

1 guardian unless the court finds, by a preponderance of the evidence,  
2 that the return of the child to his or her parent or legal guardian  
3 would create a substantial risk of detriment to the safety, protection,  
4 or physical or emotional well-being of the child. The social worker  
5 shall have the burden of establishing that detriment. At the  
6 permanency hearing, the court shall consider the criminal history,  
7 obtained pursuant to paragraph (1) of subdivision (f) of Section  
8 16504.5, of the parent or legal guardian subsequent to the child's  
9 removal to the extent that the criminal record is substantially related  
10 to the welfare of the child or the parent or legal guardian's ability  
11 to exercise custody and control regarding his or her child, provided  
12 that the parent or legal guardian agreed to submit fingerprint images  
13 to obtain criminal history information as part of the case plan. The  
14 court shall also determine whether reasonable services that were  
15 designed to aid the parent or legal guardian to overcome the  
16 problems that led to the initial removal and continued custody of  
17 the child have been provided or offered to the parent or legal  
18 guardian. For each youth 16 years of age and older, the court shall  
19 also determine whether services have been made available to assist  
20 him or her in making the transition from foster care to independent  
21 living. The failure of the parent or legal guardian to participate  
22 regularly and make substantive progress in court-ordered treatment  
23 programs shall be prima facie evidence that return would be  
24 detrimental. In making its determination, the court shall review  
25 and consider the social worker's report and recommendations and  
26 the report and recommendations of any child advocate appointed  
27 pursuant to Section 356.5, shall consider the efforts or progress,  
28 or both, demonstrated by the parent or legal guardian and the extent  
29 to which he or she availed himself or herself of services provided,  
30 taking into account the particular barriers to an incarcerated or  
31 institutionalized parent or legal guardian's access to those  
32 court-mandated services and ability to maintain contact with his  
33 or her child and shall make appropriate findings pursuant to  
34 subdivision (a) of Section 366.

35 Regardless of whether the child is returned to his or her parent  
36 or legal guardian, the court shall specify the factual basis for its  
37 decision. If the child is not returned to a parent or legal guardian,  
38 the court shall specify the factual basis for its conclusion that the  
39 return would be detrimental. The court also shall make a finding  
40 pursuant to subdivision (a) of Section 366. If the child is not

1 returned to his or her parent or legal guardian, the court shall  
2 consider, and state for the record, in-state and out-of-state  
3 placement options. If the child is placed out of the state, the court  
4 shall make a determination whether the out-of-state placement  
5 continues to be appropriate and in the best interests of the child.

6 (g) If the time period in which the court-ordered services were  
7 provided has met or exceeded the time period set forth in  
8 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)  
9 of Section 361.5, as appropriate, and a child is not returned to the  
10 custody of a parent or legal guardian at the permanency hearing  
11 held pursuant to subdivision (f), the court shall do one of the  
12 following:

13 (1) Continue the case for up to six months for a permanency  
14 review hearing, provided that the hearing shall occur within 18  
15 months of the date the child was originally taken from the physical  
16 custody of his or her parent or legal guardian. The court shall  
17 continue the case only if it finds that there is a substantial  
18 probability that the child will be returned to the physical custody  
19 of his or her parent or legal guardian and safely maintained in the  
20 home within the extended period of time or that reasonable services  
21 have not been provided to the parent or legal guardian. For the  
22 purposes of this section, in order to find a substantial probability  
23 that the child will be returned to the physical custody of his or her  
24 parent or legal guardian and safely maintained in the home within  
25 the extended period of time, the court shall be required to find all  
26 of the following:

27 (A) That the parent or legal guardian has consistently and  
28 regularly contacted and visited with the child.

29 (B) That the parent or legal guardian has made significant  
30 progress in resolving problems that led to the child's removal from  
31 the home.

32 (C) The parent or legal guardian has demonstrated the capacity  
33 and ability both to complete the objectives of his or her treatment  
34 plan and to provide for the child's safety, protection, physical and  
35 emotional well-being, and special needs.

36 For purposes of this subdivision, the court's decision to continue  
37 the case based on a finding or substantial probability that the child  
38 will be returned to the physical custody of his or her parent or legal  
39 guardian is a compelling reason for determining that a hearing

1 held pursuant to Section 366.26 is not in the best interests of the  
2 child.

3 The court shall inform the parent or legal guardian that if the  
4 child cannot be returned home by the next permanency review  
5 hearing, a proceeding pursuant to Section 366.26 may be instituted.  
6 The court may not order that a hearing pursuant to Section 366.26  
7 be held unless there is clear and convincing evidence that  
8 reasonable services have been provided or offered to the parent or  
9 legal guardian.

10 (2) Order that a hearing be held within 120 days, pursuant to  
11 Section 366.26, but only if the court does not continue the case to  
12 the permanency planning review hearing and there is clear and  
13 convincing evidence that reasonable services have been provided  
14 or offered to the parents or legal guardians. On and after January  
15 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered  
16 if the child is a nonminor dependent.

17 (3) Order that the child remain in long-term foster care, but only  
18 if the court finds by clear and convincing evidence, based upon  
19 the evidence already presented to it, including a recommendation  
20 by the State Department of Social Services when it is acting as an  
21 adoption agency in counties that are not served by a county  
22 adoption agency or by a licensed county adoption agency, that  
23 there is a compelling reason for determining that a hearing held  
24 pursuant to Section 366.26 is not in the best interest of the child  
25 because the child is not a proper subject for adoption and has no  
26 one willing to accept legal guardianship. For purposes of this  
27 section, a recommendation by the State Department of Social  
28 Services when it is acting as an adoption agency in counties that  
29 are not served by a county adoption agency or by a licensed county  
30 adoption agency that adoption is not in the best interest of the child  
31 shall constitute a compelling reason for the court's determination.  
32 That recommendation shall be based on the present circumstances  
33 of the child and shall not preclude a different recommendation at  
34 a later date if the child's circumstances change. On and after  
35 January 1, 2012, the nonminor dependent's legal status as an adult  
36 is in and of itself a compelling reason not to hold a hearing pursuant  
37 to Section 366.26. The court may order that a nonminor dependent  
38 who otherwise is eligible pursuant to Section 11403 remain in a  
39 planned, permanent living arrangement.

1 If the court orders that a child who is 10 years of age or older  
2 remain in long-term foster care, the court shall determine whether  
3 the agency has made reasonable efforts to maintain the child's  
4 relationships with individuals other than the child's siblings who  
5 are important to the child, consistent with the child's best interests,  
6 and may make any appropriate order to ensure that those  
7 relationships are maintained.

8 If the child is not returned to his or her parent or legal guardian,  
9 the court shall consider, and state for the record, in-state and  
10 out-of-state options for permanent placement. If the child is placed  
11 out of the state, the court shall make a determination whether the  
12 out-of-state placement continues to be appropriate and in the best  
13 interests of the child.

14 (h) In any case in which the court orders that a hearing pursuant  
15 to Section 366.26 shall be held, it shall also order the termination  
16 of reunification services to the parent or legal guardian. The court  
17 shall continue to permit the parent or legal guardian to visit the  
18 child pending the hearing unless it finds that visitation would be  
19 detrimental to the child. The court shall make any other appropriate  
20 orders to enable the child to maintain relationships with individuals,  
21 other than the child's siblings, who are important to the child,  
22 consistent with the child's best interests.

23 (i) (1) Whenever a court orders that a hearing pursuant to  
24 Section 366.26, including, when, in consultation with the child's  
25 tribe, tribal customary adoption is recommended, shall be held, it  
26 shall direct the agency supervising the child and the licensed county  
27 adoption agency, or the State Department of Social Services when  
28 it is acting as an adoption agency in counties that are not served  
29 by a county adoption agency, to prepare an assessment that shall  
30 include:

31 (A) Current search efforts for an absent parent or parents or  
32 legal guardians.

33 (B) A review of the amount of and nature of any contact between  
34 the child and his or her parents or legal guardians and other  
35 members of his or her extended family since the time of placement.  
36 Although the extended family of each child shall be reviewed on  
37 a case-by-case basis, "extended family" for the purpose of this  
38 subparagraph shall include, but not be limited to, the child's  
39 siblings, grandparents, aunts, and uncles.



1 (C) An evaluation of the child's medical, developmental,  
2 scholastic, mental, and emotional status.

3 (D) A preliminary assessment of the eligibility and commitment  
4 of any identified prospective adoptive parent or legal guardian,  
5 including the prospective tribal customary adoptive parent,  
6 particularly the caretaker, to include a social history including  
7 screening for criminal records and prior referrals for child abuse  
8 or neglect, the capability to meet the child's needs, and the  
9 understanding of the legal and financial rights and responsibilities  
10 of adoption and guardianship. If a proposed guardian is a relative  
11 of the minor, the assessment shall also consider, but need not be  
12 limited to, all of the factors specified in subdivision (a) of Section  
13 361.3 and in Section 361.4.

14 (E) The relationship of the child to any identified prospective  
15 adoptive parent or legal guardian, the duration and character of  
16 the relationship, the degree of attachment of the child to the  
17 prospective relative guardian or adoptive parent, the relative's or  
18 adoptive parent's strong commitment to caring permanently for  
19 the child, the motivation for seeking adoption or guardianship, a  
20 statement from the child concerning placement and the adoption  
21 or guardianship, and whether the child, if over 12 years of age,  
22 has been consulted about the proposed relative guardianship  
23 arrangements, unless the child's age or physical, emotional, or  
24 other condition precludes his or her meaningful response, and if  
25 so, a description of the condition.

26 (F) A description of efforts to be made to identify a prospective  
27 adoptive parent or legal guardian, including, but not limited to,  
28 child-specific recruitment and listing on an adoption exchange  
29 within the state or out of the state.

30 (G) An analysis of the likelihood that the child will be adopted  
31 if parental rights are terminated.

32 (H) In the case of an Indian child, in addition to subparagraphs  
33 (A) to (G), inclusive, an assessment of the likelihood that the child  
34 will be adopted, when, in consultation with the child's tribe, a  
35 customary tribal adoption, as defined in Section 366.24, is  
36 recommended. If tribal customary adoption is recommended, the  
37 assessment shall include an analysis of both of the following:

38 (i) Whether tribal customary adoption would or would not be  
39 detrimental to the Indian child and the reasons for reaching that  
40 conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(l) For purposes of this section, evidence of any of the following circumstances may not, in and of itself, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(3) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(m) The implementation and operation of the amendments to subdivisions (c) and (g) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

1 (n) This section shall remain in effect only until January 1, 2014,  
2 and as of that date is repealed, unless a later enacted statute, that  
3 is enacted before January 1, 2014, deletes or extends that date.

4 SEC. 17. Section 366.21 of the Welfare and Institutions Code,  
5 as added by Section 9 of Chapter 287 of the Statutes of 2009, is  
6 amended to read:

7 366.21. (a) Every hearing conducted by the juvenile court  
8 reviewing the status of a dependent child shall be placed on the  
9 appearance calendar. The court shall advise all persons present at  
10 the hearing of the date of the future hearing and of their right to  
11 be present and represented by counsel.

12 (b) Except as provided in Sections 294 and 295, notice of the  
13 hearing shall be provided pursuant to Section 293.

14 (c) At least 10 calendar days prior to the hearing, the social  
15 worker shall file a supplemental report with the court regarding  
16 the services provided or offered to the parent or legal guardian to  
17 enable him or her to assume custody and the efforts made to  
18 achieve legal permanence for the child if efforts to reunify fail,  
19 including, but not limited to, efforts to maintain relationships  
20 between a child who is 10 years of age or older and has been in  
21 out-of-home placement for six months or longer and individuals  
22 who are important to the child, consistent with the child's best  
23 interests; the progress made; and, where relevant, the prognosis  
24 for return of the child to the physical custody of his or her parent  
25 or legal guardian; and shall make his or her recommendation for  
26 disposition. If the child is a member of a sibling group described  
27 in subparagraph (C) of paragraph (1) of subdivision (a) of Section  
28 361.5, the report and recommendation may also take into account  
29 those factors described in subdivision (e) relating to the child's  
30 sibling group. If the recommendation is not to return the child to  
31 a parent or legal guardian, the report shall specify why the return  
32 of the child would be detrimental to the child. The social worker  
33 shall provide the parent or legal guardian, counsel for the child,  
34 and any court-appointed child advocate with a copy of the report,  
35 including his or her recommendation for disposition, at least 10  
36 calendar days prior to the hearing. In the case of a child removed  
37 from the physical custody of his or her parent or legal guardian,  
38 the social worker shall, at least 10 calendar days prior to the  
39 hearing, provide a summary of his or her recommendation for  
40 disposition to any foster parents, relative caregivers, and certified

1 foster parents who have been approved for adoption by the State  
2 Department of Social Services when it is acting as an adoption  
3 agency in counties that are not served by a county adoption agency  
4 or by a licensed county adoption agency, community care facility,  
5 or foster family agency having the physical custody of the child.  
6 The social worker shall include a copy of the Judicial Council  
7 Caregiver Information Form (JV-290) with the summary of  
8 recommendations to the child's foster parents, relative caregivers,  
9 or foster parents approved for adoption, in the caregiver's primary  
10 language when available, along with information on how to file  
11 the form with the court.

12 (d) Prior to any hearing involving a child in the physical custody  
13 of a community care facility or a foster family agency that may  
14 result in the return of the child to the physical custody of his or  
15 her parent or legal guardian, or in adoption or the creation of a  
16 legal guardianship, the facility or agency shall file with the court  
17 a report, or a Judicial Council Caregiver Information Form  
18 (JV-290), containing its recommendation for disposition. Prior to  
19 the hearing involving a child in the physical custody of a foster  
20 parent, a relative caregiver, or a certified foster parent who has  
21 been approved for adoption by the State Department of Social  
22 Services when it is acting as an adoption agency or by a licensed  
23 adoption agency, the foster parent, relative caregiver, or the  
24 certified foster parent who has been approved for adoption by the  
25 State Department of Social Services when it is acting as an  
26 adoption agency in counties that are not served by a county  
27 adoption agency or by a licensed county adoption agency, may  
28 file with the court a report containing his or her recommendation  
29 for disposition. The court shall consider the report and  
30 recommendation filed pursuant to this subdivision prior to  
31 determining any disposition.

32 (e) At the review hearing held six months after the initial  
33 dispositional hearing, but no later than 12 months after the date  
34 the child entered foster care as determined in Section 361.49,  
35 whichever occurs earlier, the court shall order the return of the  
36 child to the physical custody of his or her parent or legal guardian  
37 unless the court finds, by a preponderance of the evidence, that  
38 the return of the child to his or her parent or legal guardian would  
39 create a substantial risk of detriment to the safety, protection, or  
40 physical or emotional well-being of the child. The social worker

1 shall have the burden of establishing that detriment. At the hearing,  
2 the court shall consider the criminal history, obtained pursuant to  
3 paragraph (1) of subdivision (f) of Section 16504.5, of the parent  
4 or legal guardian subsequent to the child's removal to the extent  
5 that the criminal record is substantially related to the welfare of  
6 the child or the parent's or guardian's ability to exercise custody  
7 and control regarding his or her child, provided the parent or legal  
8 guardian agreed to submit fingerprint images to obtain criminal  
9 history information as part of the case plan. The failure of the  
10 parent or legal guardian to participate regularly and make  
11 substantive progress in court-ordered treatment programs shall be  
12 prima facie evidence that return would be detrimental. In making  
13 its determination, the court shall review and consider the social  
14 worker's report and recommendations and the report and  
15 recommendations of any child advocate appointed pursuant to  
16 Section 356.5; and shall consider the efforts or progress, or both,  
17 demonstrated by the parent or legal guardian and the extent to  
18 which he or she availed himself or herself to services provided,  
19 taking into account the particular barriers to an incarcerated or  
20 institutionalized parent or legal guardian's access to those  
21 court-mandated services and ability to maintain contact with his  
22 or her child.

23 Regardless of whether the child is returned to a parent or legal  
24 guardian, the court shall specify the factual basis for its conclusion  
25 that the return would be detrimental or would not be detrimental.  
26 The court also shall make appropriate findings pursuant to  
27 subdivision (a) of Section 366; and, where relevant, shall order  
28 any additional services reasonably believed to facilitate the return  
29 of the child to the custody of his or her parent or legal guardian.  
30 The court shall also inform the parent or legal guardian that if the  
31 child cannot be returned home by the 12-month permanency  
32 hearing, a proceeding pursuant to Section 366.26 may be instituted.  
33 This section does not apply in a case where, pursuant to Section  
34 361.5, the court has ordered that reunification services shall not  
35 be provided.

36 If the child was under three years of age on the date of the initial  
37 removal, or is a member of a sibling group described in  
38 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
39 361.5, and the court finds by clear and convincing evidence that  
40 the parent failed to participate regularly and make substantive

1 progress in a court-ordered treatment plan, the court may schedule  
2 a hearing pursuant to Section 366.26 within 120 days. If, however,  
3 the court finds there is a substantial probability that the child, who  
4 was under three years of age on the date of initial removal or is a  
5 member of a sibling group described in subparagraph (C) of  
6 paragraph (1) of subdivision (a) of Section 361.5, may be returned  
7 to his or her parent or legal guardian within six months or that  
8 reasonable services have not been provided, the court shall continue  
9 the case to the 12-month permanency hearing.

10 For the purpose of placing and maintaining a sibling group  
11 together in a permanent home, the court, in making its  
12 determination to schedule a hearing pursuant to Section 366.26  
13 for some or all members of a sibling group, as described in  
14 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
15 361.5, shall review and consider the social worker's report and  
16 recommendations. Factors the report shall address, and the court  
17 shall consider, may include, but need not be limited to, whether  
18 the sibling group was removed from parental care as a group, the  
19 closeness and strength of the sibling bond, the ages of the siblings,  
20 the appropriateness of maintaining the sibling group together, the  
21 detriment to the child if sibling ties are not maintained, the  
22 likelihood of finding a permanent home for the sibling group,  
23 whether the sibling group is currently placed together in a  
24 preadoptive home or has a concurrent plan goal of legal  
25 permanency in the same home, the wishes of each child whose  
26 age and physical and emotional condition permits a meaningful  
27 response, and the best interest of each child in the sibling group.  
28 The court shall specify the factual basis for its finding that it is in  
29 the best interest of each child to schedule a hearing pursuant to  
30 Section 366.26 in 120 days for some or all of the members of the  
31 sibling group.

32 If the child was removed initially under subdivision (g) of  
33 Section 300 and the court finds by clear and convincing evidence  
34 that the whereabouts of the parent are still unknown, or the parent  
35 has failed to contact and visit the child, the court may schedule a  
36 hearing pursuant to Section 366.26 within 120 days. The court  
37 shall take into account any particular barriers to a parent's ability  
38 to maintain contact with his or her child due to the parent's  
39 incarceration or institutionalization. If the court finds by clear and  
40 convincing evidence that the parent has been convicted of a felony

1 indicating parental unfitness, the court may schedule a hearing  
2 pursuant to Section 366.26 within 120 days.

3 If the child had been placed under court supervision with a  
4 previously noncustodial parent pursuant to Section 361.2, the court  
5 shall determine whether supervision is still necessary. The court  
6 may terminate supervision and transfer permanent custody to that  
7 parent, as provided for by paragraph (1) of subdivision (b) of  
8 Section 361.2.

9 In all other cases, the court shall direct that any reunification  
10 services previously ordered shall continue to be offered to the  
11 parent or legal guardian pursuant to the time periods set forth in  
12 subdivision (a) of Section 361.5, provided that the court may  
13 modify the terms and conditions of those services.

14 If the child is not returned to his or her parent or legal guardian,  
15 the court shall determine whether reasonable services that were  
16 designed to aid the parent or legal guardian in overcoming the  
17 problems that led to the initial removal and the continued custody  
18 of the child have been provided or offered to the parent or legal  
19 guardian. The court shall order that those services be initiated,  
20 continued, or terminated.

21 (f) The permanency hearing shall be held no later than 12  
22 months after the date the child entered foster care, as that date is  
23 determined pursuant to Section 361.49. At the permanency hearing,  
24 the court shall determine the permanent plan for the child, which  
25 shall include a determination of whether the child will be returned  
26 to the child's home and, if so, when, within the time limits of  
27 subdivision (a) of Section 361.5. The court shall order the return  
28 of the child to the physical custody of his or her parent or legal  
29 guardian unless the court finds, by a preponderance of the evidence,  
30 that the return of the child to his or her parent or legal guardian  
31 would create a substantial risk of detriment to the safety, protection,  
32 or physical or emotional well-being of the child. The social worker  
33 shall have the burden of establishing that detriment. At the  
34 permanency hearing, the court shall consider the criminal history,  
35 obtained pursuant to paragraph (1) of subdivision (f) of Section  
36 16504.5, of the parent or legal guardian subsequent to the child's  
37 removal to the extent that the criminal record is substantially related  
38 to the welfare of the child or the parent or legal guardian's ability  
39 to exercise custody and control regarding his or her child, provided  
40 that the parent or legal guardian agreed to submit fingerprint images

1 to obtain criminal history information as part of the case plan. The  
2 court shall also determine whether reasonable services that were  
3 designed to aid the parent or legal guardian to overcome the  
4 problems that led to the initial removal and continued custody of  
5 the child have been provided or offered to the parent or legal  
6 guardian. For each youth 16 years of age and older, the court shall  
7 also determine whether services have been made available to assist  
8 him or her in making the transition from foster care to independent  
9 living. The failure of the parent or legal guardian to participate  
10 regularly and make substantive progress in court-ordered treatment  
11 programs shall be prima facie evidence that return would be  
12 detrimental. In making its determination, the court shall review  
13 and consider the social worker's report and recommendations and  
14 the report and recommendations of any child advocate appointed  
15 pursuant to Section 356.5, shall consider the efforts or progress,  
16 or both, demonstrated by the parent or legal guardian and the extent  
17 to which he or she availed himself or herself of services provided,  
18 taking into account the particular barriers to an incarcerated or  
19 institutionalized parent or legal guardian's access to those  
20 court-mandated services and ability to maintain contact with his  
21 or her child and shall make appropriate findings pursuant to  
22 subdivision (a) of Section 366.

23 Regardless of whether the child is returned to his or her parent  
24 or legal guardian, the court shall specify the factual basis for its  
25 decision. If the child is not returned to a parent or legal guardian,  
26 the court shall specify the factual basis for its conclusion that the  
27 return would be detrimental. The court also shall make a finding  
28 pursuant to subdivision (a) of Section 366. If the child is not  
29 returned to his or her parent or legal guardian, the court shall  
30 consider, and state for the record, in-state and out-of-state  
31 placement options. If the child is placed out of the state, the court  
32 shall make a determination whether the out-of-state placement  
33 continues to be appropriate and in the best interests of the child.

34 (g) If the time period in which the court-ordered services were  
35 provided has met or exceeded the time period set forth in  
36 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)  
37 of Section 361.5, as appropriate, and a child is not returned to the  
38 custody of a parent or legal guardian at the permanency hearing  
39 held pursuant to subdivision (f), the court shall do one of the  
40 following:



1 (1) Continue the case for up to six months for a permanency  
2 review hearing, provided that the hearing shall occur within 18  
3 months of the date the child was originally taken from the physical  
4 custody of his or her parent or legal guardian. The court shall  
5 continue the case only if it finds that there is a substantial  
6 probability that the child will be returned to the physical custody  
7 of his or her parent or legal guardian and safely maintained in the  
8 home within the extended period of time or that reasonable services  
9 have not been provided to the parent or legal guardian. For the  
10 purposes of this section, in order to find a substantial probability  
11 that the child will be returned to the physical custody of his or her  
12 parent or legal guardian and safely maintained in the home within  
13 the extended period of time, the court shall be required to find all  
14 of the following:

15 (A) That the parent or legal guardian has consistently and  
16 regularly contacted and visited with the child.

17 (B) That the parent or legal guardian has made significant  
18 progress in resolving problems that led to the child's removal from  
19 the home.

20 (C) The parent or legal guardian has demonstrated the capacity  
21 and ability both to complete the objectives of his or her treatment  
22 plan and to provide for the child's safety, protection, physical and  
23 emotional well-being, and special needs.

24 For purposes of this subdivision, the court's decision to continue  
25 the case based on a finding or substantial probability that the child  
26 will be returned to the physical custody of his or her parent or legal  
27 guardian is a compelling reason for determining that a hearing  
28 held pursuant to Section 366.26 is not in the best interests of the  
29 child.

30 The court shall inform the parent or legal guardian that if the  
31 child cannot be returned home by the next permanency review  
32 hearing, a proceeding pursuant to Section 366.26 may be instituted.  
33 The court may not order that a hearing pursuant to Section 366.26  
34 be held unless there is clear and convincing evidence that  
35 reasonable services have been provided or offered to the parent or  
36 legal guardian.

37 (2) Order that a hearing be held within 120 days, pursuant to  
38 Section 366.26, but only if the court does not continue the case to  
39 the permanency planning review hearing and there is clear and  
40 convincing evidence that reasonable services have been provided

1 or offered to the parents or legal guardians. On or after January 1,  
2 2012, a hearing pursuant to Section 366.26 shall not be ordered if  
3 the child is a nonminor dependent.

4 (3) Order that the child remain in long-term foster care, but only  
5 if the court finds by clear and convincing evidence, based upon  
6 the evidence already presented to it, including a recommendation  
7 by the State Department of Social Services when it is acting as an  
8 adoption agency in counties that are not served by a county  
9 adoption agency or by a licensed county adoption agency, that  
10 there is a compelling reason for determining that a hearing held  
11 pursuant to Section 366.26 is not in the best interest of the child  
12 because the child is not a proper subject for adoption and has no  
13 one willing to accept legal guardianship. For purposes of this  
14 section, a recommendation by the State Department of Social  
15 Services when it is acting as an adoption agency in counties that  
16 are not served by a county adoption agency or by a licensed county  
17 adoption agency that adoption is not in the best interest of the child  
18 shall constitute a compelling reason for the court's determination.  
19 That recommendation shall be based on the present circumstances  
20 of the child and shall not preclude a different recommendation at  
21 a later date if the child's circumstances change. On and after  
22 January 1, 2012, the nonminor dependent's legal status as an adult  
23 is in and of itself a compelling reason not to hold a hearing pursuant  
24 to Section 366.26. The court may order that a nonminor dependent  
25 who otherwise is eligible pursuant to Section 11403 remain in a  
26 planned, permanent living arrangement.

27 If the court orders that a child who is 10 years of age or older  
28 remain in long-term foster care, the court shall determine whether  
29 the agency has made reasonable efforts to maintain the child's  
30 relationships with individuals other than the child's siblings who  
31 are important to the child, consistent with the child's best interests,  
32 and may make any appropriate order to ensure that those  
33 relationships are maintained.

34 If the child is not returned to his or her parent or legal guardian,  
35 the court shall consider, and state for the record, in-state and  
36 out-of-state options for permanent placement. If the child is placed  
37 out of the state, the court shall make a determination whether the  
38 out-of-state placement continues to be appropriate and in the best  
39 interests of the child.

1 (h) In any case in which the court orders that a hearing pursuant  
2 to Section 366.26 shall be held, it shall also order the termination  
3 of reunification services to the parent or legal guardian. The court  
4 shall continue to permit the parent or legal guardian to visit the  
5 child pending the hearing unless it finds that visitation would be  
6 detrimental to the child. The court shall make any other appropriate  
7 orders to enable the child to maintain relationships with individuals,  
8 other than the child's siblings, who are important to the child,  
9 consistent with the child's best interests.

10 (i) (1) Whenever a court orders that a hearing pursuant to  
11 Section 366.26 shall be held, it shall direct the agency supervising  
12 the child and the licensed county adoption agency, or the State  
13 Department of Social Services when it is acting as an adoption  
14 agency in counties that are not served by a county adoption agency,  
15 to prepare an assessment that shall include:

16 (A) Current search efforts for an absent parent or parents or  
17 legal guardians.

18 (B) A review of the amount of and nature of any contact between  
19 the child and his or her parents or legal guardians and other  
20 members of his or her extended family since the time of placement.  
21 Although the extended family of each child shall be reviewed on  
22 a case-by-case basis, "extended family" for the purpose of this  
23 subparagraph shall include, but not be limited to, the child's  
24 siblings, grandparents, aunts, and uncles.

25 (C) An evaluation of the child's medical, developmental,  
26 scholastic, mental, and emotional status.

27 (D) A preliminary assessment of the eligibility and commitment  
28 of any identified prospective adoptive parent or legal guardian,  
29 particularly the caretaker, to include a social history including  
30 screening for criminal records and prior referrals for child abuse  
31 or neglect, the capability to meet the child's needs, and the  
32 understanding of the legal and financial rights and responsibilities  
33 of adoption and guardianship. If a proposed guardian is a relative  
34 of the minor, the assessment shall also consider, but need not be  
35 limited to, all of the factors specified in subdivision (a) of Section  
36 361.3 and in Section 361.4.

37 (E) The relationship of the child to any identified prospective  
38 adoptive parent or legal guardian, the duration and character of  
39 the relationship, the degree of attachment of the child to the  
40 prospective relative guardian or adoptive parent, the relative's or

1 adoptive parent's strong commitment to caring permanently for  
2 the child, the motivation for seeking adoption or guardianship, a  
3 statement from the child concerning placement and the adoption  
4 or guardianship, and whether the child, if over 12 years of age,  
5 has been consulted about the proposed relative guardianship  
6 arrangements, unless the child's age or physical, emotional, or  
7 other condition precludes his or her meaningful response, and if  
8 so, a description of the condition.

9 (F) A description of efforts to be made to identify a prospective  
10 adoptive parent or legal guardian, including, but not limited to,  
11 child-specific recruitment and listing on an adoption exchange  
12 within the state or out of the state.

13 (G) An analysis of the likelihood that the child will be adopted  
14 if parental rights are terminated.

15 (2) (A) A relative caregiver's preference for legal guardianship  
16 over adoption, if it is due to circumstances that do not include an  
17 unwillingness to accept legal or financial responsibility for the  
18 child, shall not constitute the sole basis for recommending removal  
19 of the child from the relative caregiver for purposes of adoptive  
20 placement.

21 (B) A relative caregiver shall be given information regarding  
22 the permanency options of guardianship and adoption, including  
23 the long-term benefits and consequences of each option, prior to  
24 establishing legal guardianship or pursuing adoption.

25 (j) If, at any hearing held pursuant to Section 366.26, a  
26 guardianship is established for the minor with a an approved  
27 relative caregiver, and juvenile court dependency is subsequently  
28 dismissed, the minor shall be eligible for aid under the Kin-GAP  
29 Program, as provided for in Article 4.5 (commencing with Section  
30 11360) or Article 4.7 (commencing with Section 11385), as  
31 applicable, of Chapter 2 of Part 3 of Division 9.

32 (k) As used in this section, "relative" means an adult who is  
33 related to the minor by blood, adoption, or affinity within the fifth  
34 degree of kinship, including stepparents, stepsiblings, and all  
35 relatives whose status is preceded by the words "great,"  
36 "great-great," or "grand," or the spouse of any of those persons  
37 even if the marriage was terminated by death or dissolution.

38 (l) For purposes of this section, evidence of any of the following  
39 circumstances may not, in and of itself, be deemed a failure to  
40 provide or offer reasonable services:

1 (1) The child has been placed with a foster family that is eligible  
2 to adopt a child, or has been placed in a preadoptive home.

3 (2) The case plan includes services to make and finalize a  
4 permanent placement for the child if efforts to reunify fail.

5 (3) Services to make and finalize a permanent placement for  
6 the child, if efforts to reunify fail, are provided concurrently with  
7 services to reunify the family.

8 (m) The implementation and operation of the amendments to  
9 subdivisions (c) and (g) enacted at the 2005–06 Regular Session  
10 shall be subject to appropriation through the budget process and  
11 by phase, as provided in Section 366.35.

12 (n) This section shall become operative on January 1, 2014.

13 SEC. 18. Section 366.22 of the Welfare and Institutions Code,  
14 as amended by Section 10 of Chapter 287 of the Statutes of 2009,  
15 is amended to read:

16 366.22. (a) When a case has been continued pursuant to  
17 paragraph (1) of subdivision (g) of Section 366.21, the permanency  
18 review hearing shall occur within 18 months after the date the  
19 child was originally removed from the physical custody of his or  
20 her parent or legal guardian. The court shall order the return of the  
21 child to the physical custody of his or her parent or legal guardian  
22 unless the court finds, by a preponderance of the evidence, that  
23 the return of the child to his or her parent or legal guardian would  
24 create a substantial risk of detriment to the safety, protection, or  
25 physical or emotional well-being of the child. The social worker  
26 shall have the burden of establishing that detriment. At the  
27 permanency review hearing, the court shall consider the criminal  
28 history, obtained pursuant to paragraph (1) of subdivision (f) of  
29 Section 16504.5, of the parent or legal guardian subsequent to the  
30 child's removal, to the extent that the criminal record is  
31 substantially related to the welfare of the child or the parent's or  
32 legal guardian's ability to exercise custody and control regarding  
33 his or her child, provided that the parent or legal guardian agreed  
34 to submit fingerprint images to obtain criminal history information  
35 as part of the case plan. The failure of the parent or legal guardian  
36 to participate regularly and make substantive progress in  
37 court-ordered treatment programs shall be prima facie evidence  
38 that return would be detrimental. In making its determination, the  
39 court shall review and consider the social worker's report and  
40 recommendations and the report and recommendations of any child

1 advocate appointed pursuant to Section 356.5; shall consider the  
2 efforts or progress, or both, demonstrated by the parent or legal  
3 guardian and the extent to which he or she availed himself or  
4 herself of services provided, taking into account the particular  
5 barriers of an incarcerated or institutionalized parent or legal  
6 guardian's access to those court-mandated services and ability to  
7 maintain contact with his or her child; and shall make appropriate  
8 findings pursuant to subdivision (a) of Section 366.

9 Whether or not the child is returned to his or her parent or legal  
10 guardian, the court shall specify the factual basis for its decision.  
11 If the child is not returned to a parent or legal guardian, the court  
12 shall specify the factual basis for its conclusion that return would  
13 be detrimental. If the child is not returned to his or her parent or  
14 legal guardian, the court shall consider, and state for the record,  
15 in-state and out-of-state options for the child's permanent  
16 placement. If the child is placed out of the state, the court shall  
17 make a determination whether the out-of-state placement continues  
18 to be appropriate and in the best interests of the child.

19 Unless the conditions in subdivision (b) are met and the child is  
20 not returned to a parent or legal guardian at the permanency review  
21 hearing, the court shall order that a hearing be held pursuant to  
22 Section 366.26 in order to determine whether adoption, or, in the  
23 case of an Indian child, in consultation with the child's tribe, tribal  
24 customary adoption, guardianship, or long-term foster care is the  
25 most appropriate plan for the child. On and after January 1, 2012,  
26 a hearing pursuant to Section 366.26 shall not be ordered if the  
27 child is a nonminor dependent. However, if the court finds by clear  
28 and convincing evidence, based on the evidence already presented  
29 to it, including a recommendation by the State Department of  
30 Social Services when it is acting as an adoption agency in counties  
31 that are not served by a county adoption agency or by a licensed  
32 county adoption agency, that there is a compelling reason, as  
33 described in paragraph (3) of subdivision (g) of Section 366.21,  
34 for determining that a hearing held under Section 366.26 is not in  
35 the best interest of the child because the child is not a proper  
36 subject for adoption and has no one willing to accept legal  
37 guardianship, then the court may, only under these circumstances,  
38 order that the child remain in long-term foster care. On and after  
39 January 1, 2012, the nonminor dependent's legal status as an adult  
40 is in and of itself a compelling reason not to hold a hearing pursuant

1 to Section 366.26. The court may order that a nonminor dependent  
2 who otherwise is eligible pursuant to Section 11403 remain in a  
3 planned, permanent living arrangement. If the court orders that a  
4 child who is 10 years of age or older remain in long-term foster  
5 care, the court shall determine whether the agency has made  
6 reasonable efforts to maintain the child's relationships with  
7 individuals other than the child's siblings who are important to the  
8 child, consistent with the child's best interests, and may make any  
9 appropriate order to ensure that those relationships are maintained.  
10 The hearing shall be held no later than 120 days from the date of  
11 the permanency review hearing. The court shall also order  
12 termination of reunification services to the parent or legal guardian.  
13 The court shall continue to permit the parent or legal guardian to  
14 visit the child unless it finds that visitation would be detrimental  
15 to the child. The court shall determine whether reasonable services  
16 have been offered or provided to the parent or legal guardian. For  
17 purposes of this subdivision, evidence of any of the following  
18 circumstances shall not, in and of themselves, be deemed a failure  
19 to provide or offer reasonable services:

20 (1) The child has been placed with a foster family that is eligible  
21 to adopt a child, or has been placed in a preadoptive home.

22 (2) The case plan includes services to make and finalize a  
23 permanent placement for the child if efforts to reunify fail.

24 (3) Services to make and finalize a permanent placement for  
25 the child, if efforts to reunify fail, are provided concurrently with  
26 services to reunify the family.

27 (b) If the child is not returned to a parent or legal guardian at  
28 the permanency review hearing and the court determines by clear  
29 and convincing evidence that the best interests of the child would  
30 be met by the provision of additional reunification services to a  
31 parent or legal guardian who is making significant and consistent  
32 progress in a court-ordered residential substance abuse treatment  
33 program, or a parent recently discharged from incarceration or  
34 institutionalization and making significant and consistent progress  
35 in establishing a safe home for the child's return, the court may  
36 continue the case for up to six months for a subsequent permanency  
37 review hearing, provided that the hearing shall occur within 24  
38 months of the date the child was originally taken from the physical  
39 custody of his or her parent or legal guardian. The court shall  
40 continue the case only if it finds that there is a substantial

1 probability that the child will be returned to the physical custody  
2 of his or her parent or legal guardian and safely maintained in the  
3 home within the extended period of time or that reasonable services  
4 have not been provided to the parent or legal guardian. For the  
5 purposes of this section, in order to find a substantial probability  
6 that the child will be returned to the physical custody of his or her  
7 parent or legal guardian and safely maintained in the home within  
8 the extended period of time, the court shall be required to find all  
9 of the following:

10 (1) That the parent or legal guardian has consistently and  
11 regularly contacted and visited with the child.

12 (2) That the parent or legal guardian has made significant and  
13 consistent progress in the prior 18 months in resolving problems  
14 that led to the child's removal from the home.

15 (3) The parent or legal guardian has demonstrated the capacity  
16 and ability both to complete the objectives of his or her substance  
17 abuse treatment plan as evidenced by reports from a substance  
18 abuse provider as applicable, or complete a treatment plan  
19 postdischarge from incarceration or institutionalization, and to  
20 provide for the child's safety, protection, physical and emotional  
21 well-being, and special needs.

22 For purposes of this subdivision, the court's decision to continue  
23 the case based on a finding or substantial probability that the child  
24 will be returned to the physical custody of his or her parent or legal  
25 guardian is a compelling reason for determining that a hearing  
26 held pursuant to Section 366.26 is not in the best interests of the  
27 child.

28 The court shall inform the parent or legal guardian that if the  
29 child cannot be returned home by the subsequent permanency  
30 review hearing, a proceeding pursuant to Section 366.26 may be  
31 instituted. The court may not order that a hearing pursuant to  
32 Section 366.26 be held unless there is clear and convincing  
33 evidence that reasonable services have been provided or offered  
34 to the parent or legal guardian.

35 (c) (1) Whenever a court orders that a hearing pursuant to  
36 Section 366.26, including when a tribal customary adoption is  
37 recommended, shall be held, it shall direct the agency supervising  
38 the child and the licensed county adoption agency, or the State  
39 Department of Social Services when it is acting as an adoption



1 agency in counties that are not served by a county adoption agency,  
2 to prepare an assessment that shall include:

3 (A) Current search efforts for an absent parent or parents.

4 (B) A review of the amount of and nature of any contact between  
5 the child and his or her parents and other members of his or her  
6 extended family since the time of placement. Although the  
7 extended family of each child shall be reviewed on a case-by-case  
8 basis, “extended family” for the purposes of this subparagraph  
9 shall include, but not be limited to, the child’s siblings,  
10 grandparents, aunts, and uncles.

11 (C) An evaluation of the child’s medical, developmental,  
12 scholastic, mental, and emotional status.

13 (D) A preliminary assessment of the eligibility and commitment  
14 of any identified prospective adoptive parent or legal guardian,  
15 particularly the caretaker, to include a social history including  
16 screening for criminal records and prior referrals for child abuse  
17 or neglect, the capability to meet the child’s needs, and the  
18 understanding of the legal and financial rights and responsibilities  
19 of adoption and guardianship. If a proposed legal guardian is a  
20 relative of the minor, the assessment shall also consider, but need  
21 not be limited to, all of the factors specified in subdivision (a) of  
22 Section 361.3 and Section 361.4.

23 (E) The relationship of the child to any identified prospective  
24 adoptive parent or legal guardian, the duration and character of  
25 the relationship, the degree of attachment of the child to the  
26 prospective relative guardian or adoptive parent, the relative’s or  
27 adoptive parent’s strong commitment to caring permanently for  
28 the child, the motivation for seeking adoption or legal guardianship,  
29 a statement from the child concerning placement and the adoption  
30 or legal guardianship, and whether the child, if over 12 years of  
31 age, has been consulted about the proposed relative guardianship  
32 arrangements, unless the child’s age or physical, emotional, or  
33 other condition precludes his or her meaningful response, and if  
34 so, a description of the condition.

35 (F) An analysis of the likelihood that the child will be adopted  
36 if parental rights are terminated.

37 (G) In the case of an Indian child, in addition to subparagraphs  
38 (A) to (F), inclusive, an assessment of the likelihood that the child  
39 will be adopted, when, in consultation with the child’s tribe, a  
40 customary tribal adoption, as defined in Section 366.24, is

1 recommended. If tribal customary adoption is recommended, the  
2 assessment shall include an analysis of both of the following:

3 (i) Whether tribal customary adoption would or would not be  
4 detrimental to the Indian child and the reasons for reaching that  
5 conclusion.

6 (ii) Whether the Indian child cannot or should not be returned  
7 to the home of the Indian parent or Indian custodian and the reasons  
8 for reaching that conclusion.

9 (2) (A) A relative caregiver's preference for legal guardianship  
10 over adoption, if it is due to circumstances that do not include an  
11 unwillingness to accept legal or financial responsibility for the  
12 child, shall not constitute the sole basis for recommending removal  
13 of the child from the relative caregiver for purposes of adoptive  
14 placement.

15 (B) A relative caregiver shall be given information regarding  
16 the permanency options of guardianship and adoption, including  
17 the long-term benefits and consequences of each option, prior to  
18 establishing legal guardianship or pursuing adoption.

19 (d) This section shall become operative January 1, 1999. If at  
20 any hearing held pursuant to Section 366.26, a legal guardianship  
21 is established for the minor with an approved relative caregiver,  
22 and juvenile court dependency is subsequently dismissed, the minor  
23 shall be eligible for aid under the Kin-GAP Program, as provided  
24 for in Article 4.5 (commencing with Section 11360) or Article 4.7  
25 (commencing with Section 11385), as applicable, of Chapter 2 of  
26 Part 3 of Division 9.

27 (e) As used in this section, "relative" means an adult who is  
28 related to the child by blood, adoption, or affinity within the fifth  
29 degree of kinship, including stepparents, stepsiblings, and all  
30 relatives whose status is preceded by the words "great,"  
31 "great-great," or "grand," or the spouse of any of those persons  
32 even if the marriage was terminated by death or dissolution.

33 (f) The implementation and operation of the amendments to  
34 subdivision (a) enacted at the 2005–06 Regular Session shall be  
35 subject to appropriation through the budget process and by phase,  
36 as provided in Section 366.35.

37 (g) This section shall remain in effect only until January 1, 2014,  
38 and as of that date is repealed, unless a later enacted statute, that  
39 is enacted before January 1, 2014, deletes or extends that date.

1 SEC. 19. Section 366.22 of the Welfare and Institutions Code,  
2 as added by Section 11 of Chapter 287 of the Statutes of 2009, is  
3 amended to read:

4 366.22. (a) When a case has been continued pursuant to  
5 paragraph (1) of subdivision (g) of Section 366.21, the permanency  
6 review hearing shall occur within 18 months after the date the  
7 child was originally removed from the physical custody of his or  
8 her parent or legal guardian. The court shall order the return of the  
9 child to the physical custody of his or her parent or legal guardian  
10 unless the court finds, by a preponderance of the evidence, that  
11 the return of the child to his or her parent or legal guardian would  
12 create a substantial risk of detriment to the safety, protection, or  
13 physical or emotional well-being of the child. The social worker  
14 shall have the burden of establishing that detriment. At the  
15 permanency review hearing, the court shall consider the criminal  
16 history, obtained pursuant to paragraph (1) of subdivision (f) of  
17 Section 16504.5, of the parent or legal guardian subsequent to the  
18 child's removal, to the extent that the criminal record is  
19 substantially related to the welfare of the child or the parent's or  
20 legal guardian's ability to exercise custody and control regarding  
21 his or her child, provided that the parent or legal guardian agreed  
22 to submit fingerprint images to obtain criminal history information  
23 as part of the case plan. The failure of the parent or legal guardian  
24 to participate regularly and make substantive progress in  
25 court-ordered treatment programs shall be prima facie evidence  
26 that return would be detrimental. In making its determination, the  
27 court shall review and consider the social worker's report and  
28 recommendations and the report and recommendations of any child  
29 advocate appointed pursuant to Section 356.5; shall consider the  
30 efforts or progress, or both, demonstrated by the parent or legal  
31 guardian and the extent to which he or she availed himself or  
32 herself of services provided, taking into account the particular  
33 barriers of an incarcerated or institutionalized parent or legal  
34 guardian's access to those court-mandated services and ability to  
35 maintain contact with his or her child; and shall make appropriate  
36 findings pursuant to subdivision (a) of Section 366.

37 Whether or not the child is returned to his or her parent or legal  
38 guardian, the court shall specify the factual basis for its decision.  
39 If the child is not returned to a parent or legal guardian, the court  
40 shall specify the factual basis for its conclusion that return would

1 be detrimental. If the child is not returned to his or her parent or  
2 legal guardian, the court shall consider, and state for the record,  
3 in-state and out-of-state options for the child's permanent  
4 placement. If the child is placed out of the state, the court shall  
5 make a determination whether the out-of-state placement continues  
6 to be appropriate and in the best interests of the child.

7 Unless the conditions in subdivision (b) are met and the child is  
8 not returned to a parent or legal guardian at the permanency review  
9 hearing, the court shall order that a hearing be held pursuant to  
10 Section 366.26 in order to determine whether adoption,  
11 guardianship, or long-term foster care is the most appropriate plan  
12 for the child. On and after January 1, 2012, a hearing pursuant to  
13 Section 366.26 shall not be ordered if the child is a nonminor  
14 dependent. However, if the court finds by clear and convincing  
15 evidence, based on the evidence already presented to it, including  
16 a recommendation by the State Department of Social Services  
17 when it is acting as an adoption agency in counties that are not  
18 served by a county adoption agency or by a licensed county  
19 adoption agency, that there is a compelling reason, as described  
20 in paragraph (3) of subdivision (g) of Section 366.21, for  
21 determining that a hearing held under Section 366.26 is not in the  
22 best interest of the child because the child is not a proper subject  
23 for adoption and has no one willing to accept legal guardianship,  
24 then the court may, only under these circumstances, order that the  
25 child remain in long-term foster care. On and after January 1, 2012,  
26 the nonminor dependent's legal status as an adult is in and of itself  
27 a compelling reason not to hold a hearing pursuant to Section  
28 366.26. The court may order that a nonminor dependent who  
29 otherwise is eligible pursuant to Section 11403 remain in a planned,  
30 permanent living arrangement. If the court orders that a child who  
31 is 10 years of age or older remain in long-term foster care, the  
32 court shall determine whether the agency has made reasonable  
33 efforts to maintain the child's relationships with individuals other  
34 than the child's siblings who are important to the child, consistent  
35 with the child's best interests, and may make any appropriate order  
36 to ensure that those relationships are maintained. The hearing shall  
37 be held no later than 120 days from the date of the permanency  
38 review hearing. The court shall also order termination of  
39 reunification services to the parent or legal guardian. The court  
40 shall continue to permit the parent or legal guardian to visit the

1 child unless it finds that visitation would be detrimental to the  
2 child. The court shall determine whether reasonable services have  
3 been offered or provided to the parent or legal guardian. For  
4 purposes of this subdivision, evidence of any of the following  
5 circumstances shall not, in and of themselves, be deemed a failure  
6 to provide or offer reasonable services:

7 (1) The child has been placed with a foster family that is eligible  
8 to adopt a child, or has been placed in a preadoptive home.

9 (2) The case plan includes services to make and finalize a  
10 permanent placement for the child if efforts to reunify fail.

11 (3) Services to make and finalize a permanent placement for  
12 the child, if efforts to reunify fail, are provided concurrently with  
13 services to reunify the family.

14 (b) If the child is not returned to a parent or legal guardian at  
15 the permanency review hearing and the court determines by clear  
16 and convincing evidence that the best interests of the child would  
17 be met by the provision of additional reunification services to a  
18 parent or legal guardian who is making significant and consistent  
19 progress in a court-ordered residential substance abuse treatment  
20 program, or a parent recently discharged from incarceration or  
21 institutionalization and making significant and consistent progress  
22 in establishing a safe home for the child's return, the court may  
23 continue the case for up to six months for a subsequent permanency  
24 review hearing, provided that the hearing shall occur within 24  
25 months of the date the child was originally taken from the physical  
26 custody of his or her parent or legal guardian. The court shall  
27 continue the case only if it finds that there is a substantial  
28 probability that the child will be returned to the physical custody  
29 of his or her parent or legal guardian and safely maintained in the  
30 home within the extended period of time or that reasonable services  
31 have not been provided to the parent or legal guardian. For the  
32 purposes of this section, in order to find a substantial probability  
33 that the child will be returned to the physical custody of his or her  
34 parent or legal guardian and safely maintained in the home within  
35 the extended period of time, the court shall be required to find all  
36 of the following:

37 (1) That the parent or legal guardian has consistently and  
38 regularly contacted and visited with the child.

1 (2) That the parent or legal guardian has made significant and  
2 consistent progress in the prior 18 months in resolving problems  
3 that led to the child's removal from the home.

4 (3) The parent or legal guardian has demonstrated the capacity  
5 and ability both to complete the objectives of his or her substance  
6 abuse treatment plan as evidenced by reports from a substance  
7 abuse provider as applicable, or complete a treatment plan  
8 postdischarge from incarceration or institutionalization, and to  
9 provide for the child's safety, protection, physical and emotional  
10 well-being, and special needs.

11 For purposes of this subdivision, the court's decision to continue  
12 the case based on a finding or substantial probability that the child  
13 will be returned to the physical custody of his or her parent or legal  
14 guardian is a compelling reason for determining that a hearing  
15 held pursuant to Section 366.26 is not in the best interests of the  
16 child.

17 The court shall inform the parent or legal guardian that if the  
18 child cannot be returned home by the subsequent permanency  
19 review hearing, a proceeding pursuant to Section 366.26 may be  
20 instituted. The court may not order that a hearing pursuant to  
21 Section 366.26 be held unless there is clear and convincing  
22 evidence that reasonable services have been provided or offered  
23 to the parent or legal guardian.

24 (c) (1) Whenever a court orders that a hearing pursuant to  
25 Section 366.26 shall be held, it shall direct the agency supervising  
26 the child and the licensed county adoption agency, or the State  
27 Department of Social Services when it is acting as an adoption  
28 agency in counties that are not served by a county adoption agency,  
29 to prepare an assessment that shall include:

30 (A) Current search efforts for an absent parent or parents.

31 (B) A review of the amount of and nature of any contact between  
32 the child and his or her parents and other members of his or her  
33 extended family since the time of placement. Although the  
34 extended family of each child shall be reviewed on a case-by-case  
35 basis, "extended family" for the purposes of this subparagraph  
36 shall include, but not be limited to, the child's siblings,  
37 grandparents, aunts, and uncles.

38 (C) An evaluation of the child's medical, developmental,  
39 scholastic, mental, and emotional status.

1 (D) A preliminary assessment of the eligibility and commitment  
2 of any identified prospective adoptive parent or legal guardian,  
3 particularly the caretaker, to include a social history including  
4 screening for criminal records and prior referrals for child abuse  
5 or neglect, the capability to meet the child's needs, and the  
6 understanding of the legal and financial rights and responsibilities  
7 of adoption and guardianship. If a proposed legal guardian is a  
8 relative of the minor, the assessment shall also consider, but need  
9 not be limited to, all of the factors specified in subdivision (a) of  
10 Section 361.3 and Section 361.4.

11 (E) The relationship of the child to any identified prospective  
12 adoptive parent or legal guardian, the duration and character of  
13 the relationship, the degree of attachment of the child to the  
14 prospective relative guardian or adoptive parent, the relative's or  
15 adoptive parent's strong commitment to caring permanently for  
16 the child, the motivation for seeking adoption or legal guardianship,  
17 a statement from the child concerning placement and the adoption  
18 or legal guardianship, and whether the child, if over 12 years of  
19 age, has been consulted about the proposed relative guardianship  
20 arrangements, unless the child's age or physical, emotional, or  
21 other condition precludes his or her meaningful response, and if  
22 so, a description of the condition.

23 (F) An analysis of the likelihood that the child will be adopted  
24 if parental rights are terminated.

25 (2) (A) A relative caregiver's preference for legal guardianship  
26 over adoption, if it is due to circumstances that do not include an  
27 unwillingness to accept legal or financial responsibility for the  
28 child, shall not constitute the sole basis for recommending removal  
29 of the child from the relative caregiver for purposes of adoptive  
30 placement.

31 (B) A relative caregiver shall be given information regarding  
32 the permanency options of guardianship and adoption, including  
33 the long-term benefits and consequences of each option, prior to  
34 establishing legal guardianship or pursuing adoption.

35 (d) This section shall become operative January 1, 1999. If at  
36 any hearing held pursuant to Section 366.26, a legal guardianship  
37 is established for the minor with an approved relative caregiver,  
38 and juvenile court dependency is subsequently dismissed, the minor  
39 shall be eligible for aid under the Kin-GAP Program, as provided  
40 for in Article 4.5 (commencing with Section 11360) or Article 4.7

(commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(e) As used in this section, “relative” means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(f) The implementation and operation of the amendments to subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

(g) This section shall become operative on January 1, 2014.

SEC. 20. Section 366.25 of the Welfare and Institutions Code, as amended by Section 13 of Chapter 287 of the Statutes of 2009, is amended to read:

366.25. (a) (1) When a case has been continued pursuant to subdivision (b) of Section 366.22, the subsequent permanency review hearing shall occur within 24 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the subsequent permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child’s removal to the extent that the criminal record is substantially related to the welfare of the child or parent or legal guardian’s ability to exercise custody and control regarding his or her child provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker’s report and



1 recommendations and the report and recommendations of any child  
2 advocate appointed pursuant to Section 356.5; shall consider the  
3 efforts or progress, or both, demonstrated by the parent or legal  
4 guardian and the extent to which he or she availed himself or  
5 herself of services provided; and shall make appropriate findings  
6 pursuant to subdivision (a) of Section 366.

7 (2) Whether or not the child is returned to his or her parent or  
8 legal guardian, the court shall specify the factual basis for its  
9 decision. If the child is not returned to a parent or legal guardian,  
10 the court shall specify the factual basis for its conclusion that return  
11 would be detrimental. If the child is not returned to his or her  
12 parents or legal guardian, the court shall consider and state for the  
13 record, in-state and out-of-state options for the child's permanent  
14 placement. If the child is placed out of the state, the court shall  
15 make a determination whether the out-of-state placement continues  
16 to be appropriate and in best interests of the child.

17 (3) If the child is not returned to a parent or legal guardian at  
18 the subsequent permanency review hearing, the court shall order  
19 that a hearing be held pursuant to Section 366.26 in order to  
20 determine whether adoption, or, in the case of an Indian child,  
21 tribal customary adoption, guardianship, or long-term foster care  
22 is the most appropriate plan for the child. On and after January 1,  
23 2012, a hearing pursuant to Section 366.26 shall not be ordered if  
24 the child is a nonminor dependent. However, if the court finds by  
25 clear and convincing evidence, based on the evidence already  
26 presented to it, including a recommendation by the State  
27 Department of Social Services when it is acting as an adoption  
28 agency in counties that are not served by a county adoption agency  
29 or by a licensed county adoption agency, that there is a compelling  
30 reason, as described in paragraph (3) of subdivision (g) of Section  
31 366.21, for determining that a hearing held under Section 366.26  
32 is not in the best interest of the child because the child is not a  
33 proper subject for adoption or, in the case of an Indian child, tribal  
34 customary adoption, and has no one willing to accept legal  
35 guardianship, then the court may, only under these circumstances,  
36 order that the child remain in long-term foster care. On and after  
37 January 1, 2012, the nonminor dependent's legal status as an adult  
38 is in and of itself a compelling reason not to hold a hearing pursuant  
39 to Section 366.26. The court may order that a nonminor dependent  
40 who otherwise is eligible pursuant to Section 11403 remain in a

1 planned, permanent living arrangement. If the court orders that a  
2 child who is 10 years of age or older remain in long-term foster  
3 care, the court shall determine whether the agency has made  
4 reasonable efforts to maintain the child's relationships with  
5 individuals other than the child's siblings who are important to the  
6 child, consistent with the child's best interests, and may make any  
7 appropriate order to ensure that those relationships are maintained.  
8 The hearing shall be held no later than 120 days from the date of  
9 the subsequent permanency review hearing. The court shall also  
10 order termination of reunification services to the parent or legal  
11 guardian. The court shall continue to permit the parent or legal  
12 guardian to visit the child unless it finds that visitation would be  
13 detrimental to the child. The court shall determine whether  
14 reasonable services have been offered or provided to the parent or  
15 legal guardian. For purposes of this subdivision, evidence of any  
16 of the following circumstances shall not, in and of themselves, be  
17 deemed a failure to provide or offer reasonable services:

18 (A) The child has been placed with a foster family that is eligible  
19 to adopt a child, or has been placed in a preadoptive home.

20 (B) The case plan includes services to make and finalize a  
21 permanent placement for the child if efforts to reunify fail.

22 (C) Services to make and finalize a permanent placement for  
23 the child, if efforts to reunify fail, are provided concurrently with  
24 services to reunify the family.

25 (b) (1) Whenever a court orders that a hearing pursuant to  
26 Section 366.26 shall be held, it shall direct the agency supervising  
27 the child and the licensed county adoption agency, or the State  
28 Department of Social Services when it is acting as an adoption  
29 agency in counties that are not served by a county adoption agency,  
30 to prepare an assessment that shall include:

31 (A) Current search efforts for an absent parent or parents.

32 (B) A review of the amount of, and nature of, any contact  
33 between the child and his or her parents and other members of his  
34 or her extended family since the time of placement. Although the  
35 extended family of each child shall be reviewed on a case-by-case  
36 basis, "extended family" for the purposes of this paragraph shall  
37 include, but not be limited to, the child's siblings, grandparents,  
38 aunts, and uncles.

39 (C) An evaluation of the child's medical, developmental,  
40 scholastic, mental, and emotional status.

1 (D) A preliminary assessment of the eligibility and commitment  
2 of any identified prospective adoptive parent or legal guardian,  
3 including a prospective tribal customary adoptive parent,  
4 particularly the caretaker, to include a social history including  
5 screening for criminal records and prior referrals for child abuse  
6 or neglect, the capability to meet the child's needs, and the  
7 understanding of the legal and financial rights and responsibilities  
8 of adoption and guardianship. If a proposed legal guardian is a  
9 relative of the minor, the assessment shall also consider, but need  
10 not be limited to, all of the factors specified in subdivision (a) of  
11 Section 361.3 and in Section 361.4.

12 (E) The relationship of the child to any identified prospective  
13 adoptive parent or legal guardian, including a prospective tribal  
14 customary adoptive parent, the duration and character of the  
15 relationship, the degree of attachment of the child to the prospective  
16 relative guardian or adoptive parent, the relative's or adoptive  
17 parent's strong commitment to caring permanently for the child,  
18 the motivation for seeking adoption or legal guardianship, a  
19 statement from the child concerning placement and the adoption  
20 or legal guardianship, and whether the child, if over 12 years of  
21 age, has been consulted about the proposed relative guardianship  
22 arrangements, unless the child's age or physical, emotional, or  
23 other condition precludes his or her meaningful response, and if  
24 so, a description of the condition.

25 (F) An analysis of the likelihood that the child will be adopted  
26 if parental rights are terminated.

27 (G) In the case of an Indian child, in addition to subparagraphs  
28 (A) to (F), inclusive, an assessment of the likelihood that the child  
29 will be adopted, when, in consultation with the child's tribe, a  
30 customary tribal adoption, as defined in Section 366.24, is  
31 recommended. If tribal customary adoption is recommended, the  
32 assessment shall include an analysis of both of the following:

33 (i) Whether tribal customary adoption would or would not be  
34 detrimental to the Indian child and the reasons for reaching that  
35 conclusion.

36 (ii) Whether the Indian child cannot or should not be returned  
37 to the home of the Indian parent or Indian custodian and the reasons  
38 for reaching that conclusion.

39 (2) (A) A relative caregiver's preference for legal guardianship  
40 over adoption, if it is due to circumstances that do not include an

1 unwillingness to accept legal or financial responsibility for the  
2 child, shall not constitute the sole basis for recommending removal  
3 of the child from the relative caregiver for purposes of adoptive  
4 placement.

5 (B) A relative caregiver shall be given information regarding  
6 the permanency options of guardianship and adoption, including  
7 the long-term benefits and consequences of each option, prior to  
8 establishing legal guardianship or pursuing adoption.

9 (c) If, at any hearing held pursuant to Section 366.26, a  
10 guardianship is established for the minor with an approved relative  
11 caregiver, and juvenile court dependency is subsequently  
12 dismissed, the minor shall be eligible for aid under the Kin-GAP  
13 Program, as provided for in Article 4.5 (commencing with Section  
14 11360) or Article 4.7 (commencing with Section 11385), as  
15 applicable, of Chapter 2 of Part 3 of Division 9.

16 (d) As used in this section, “relative” means an adult who is  
17 related to the minor by blood, adoption, or affinity within the fifth  
18 degree of kinship, including stepparents, stepsiblings, and all  
19 relatives whose status is preceded by the words “great,”  
20 “great-great,” or “grand,” or the spouse of any of those persons  
21 even if the marriage was terminated by death or dissolution.

22 (e) The implementation and operation of subdivision (a) enacted  
23 at the 2005–06 Regular Session shall be subject to appropriation  
24 through the budget process and by phase, as provided in Section  
25 366.35.

26 (f) This section shall remain in effect only until January 1, 2014,  
27 and as of that date is repealed, unless a later enacted statute, that  
28 is enacted before January 1, 2014, deletes or extends that date.

29 SEC. 21. Section 366.25 of the Welfare and Institutions Code,  
30 as added by Section 14 of Chapter 287 of the Statutes of 2009, is  
31 amended to read:

32 366.25. (a) (1) When a case has been continued pursuant to  
33 subdivision (b) of Section 366.22, the subsequent permanency  
34 review hearing shall occur within 24 months after the date the  
35 child was originally removed from the physical custody of his or  
36 her parent or legal guardian. The court shall order the return of the  
37 child to the physical custody of his or her parent or legal guardian  
38 unless the court finds, by a preponderance of the evidence, that  
39 the return of the child to his or her parent or legal guardian would  
40 create a substantial risk of detriment to the safety, protection, or

1 physical or emotional well-being of the child. The social worker  
2 shall have the burden of establishing that detriment. At the  
3 subsequent permanency review hearing, the court shall consider  
4 the criminal history, obtained pursuant to paragraph (1) of  
5 subdivision (f) of Section 16504.5, of the parent or legal guardian  
6 subsequent to the child's removal to the extent that the criminal  
7 record is substantially related to the welfare of the child or parent  
8 or legal guardian's ability to exercise custody and control regarding  
9 his or her child provided that the parent or legal guardian agreed  
10 to submit fingerprint images to obtain criminal history information  
11 as part of the case plan. The failure of the parent or legal guardian  
12 to participate regularly and make substantive progress in  
13 court-ordered treatment programs shall be prima facie evidence  
14 that return would be detrimental. In making its determination, the  
15 court shall review and consider the social worker's report and  
16 recommendations and the report and recommendations of any child  
17 advocate appointed pursuant to Section 356.5; shall consider the  
18 efforts or progress, or both, demonstrated by the parent or legal  
19 guardian and the extent to which he or she availed himself or  
20 herself of services provided; and shall make appropriate findings  
21 pursuant to subdivision (a) of Section 366.

22 (2) Whether or not the child is returned to his or her parent or  
23 legal guardian, the court shall specify the factual basis for its  
24 decision. If the child is not returned to a parent or legal guardian,  
25 the court shall specify the factual basis for its conclusion that return  
26 would be detrimental. If the child is not returned to his or her  
27 parents or legal guardian, the court shall consider and state for the  
28 record, in-state and out-of-state options for the child's permanent  
29 placement. If the child is placed out of the state, the court shall  
30 make a determination whether the out-of-state placement continues  
31 to be appropriate and in best interests of the child.

32 (3) If the child is not returned to a parent or legal guardian at  
33 the subsequent permanency review hearing, the court shall order  
34 that a hearing be held pursuant to Section 366.26 in order to  
35 determine whether adoption, guardianship, or long-term foster  
36 care is the most appropriate plan for the child. On and after January  
37 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered  
38 if the child is a nonminor dependent. However, if the court finds  
39 by clear and convincing evidence, based on the evidence already  
40 presented to it, including a recommendation by the State

1 Department of Social Services when it is acting as an adoption  
2 agency in counties that are not served by a county adoption agency  
3 or by a licensed county adoption agency, that there is a compelling  
4 reason, as described in paragraph (3) of subdivision (g) of Section  
5 366.21, for determining that a hearing held under Section 366.26  
6 is not in the best interest of the child because the child is not a  
7 proper subject for adoption and has no one willing to accept legal  
8 guardianship, then the court may, only under these circumstances,  
9 order that the child remain in long-term foster care. On and after  
10 January 1, 2012, the nonminor dependent's legal status as an adult  
11 is in and of itself a compelling reason not to hold a hearing pursuant  
12 to Section 366.26. The court may order that a nonminor dependent  
13 who otherwise is eligible pursuant to Section 11403 remain in a  
14 planned, permanent living arrangement. If the court orders that a  
15 child who is 10 years of age or older remain in long-term foster  
16 care, the court shall determine whether the agency has made  
17 reasonable efforts to maintain the child's relationships with  
18 individuals other than the child's siblings who are important to the  
19 child, consistent with the child's best interests, and may make any  
20 appropriate order to ensure that those relationships are maintained.  
21 The hearing shall be held no later than 120 days from the date of  
22 the subsequent permanency review hearing. The court shall also  
23 order termination of reunification services to the parent or legal  
24 guardian. The court shall continue to permit the parent or legal  
25 guardian to visit the child unless it finds that visitation would be  
26 detrimental to the child. The court shall determine whether  
27 reasonable services have been offered or provided to the parent or  
28 legal guardian. For purposes of this subdivision, evidence of any  
29 of the following circumstances shall not, in and of themselves, be  
30 deemed a failure to provide or offer reasonable services:

31 (A) The child has been placed with a foster family that is eligible  
32 to adopt a child, or has been placed in a preadoptive home.

33 (B) The case plan includes services to make and finalize a  
34 permanent placement for the child if efforts to reunify fail.

35 (C) Services to make and finalize a permanent placement for  
36 the child, if efforts to reunify fail, are provided concurrently with  
37 services to reunify the family.

38 (b) (1) Whenever a court orders that a hearing pursuant to  
39 Section 366.26 shall be held, it shall direct the agency supervising  
40 the child and the licensed county adoption agency, or the State

1 Department of Social Services when it is acting as an adoption  
2 agency in counties that are not served by a county adoption agency,  
3 to prepare an assessment that shall include:

4 (A) Current search efforts for an absent parent or parents.

5 (B) A review of the amount of, and nature of, any contact  
6 between the child and his or her parents and other members of his  
7 or her extended family since the time of placement. Although the  
8 extended family of each child shall be reviewed on a case-by-case  
9 basis, “extended family” for the purposes of this paragraph shall  
10 include, but not be limited to, the child’s siblings, grandparents,  
11 aunts, and uncles.

12 (C) An evaluation of the child’s medical, developmental,  
13 scholastic, mental, and emotional status.

14 (D) A preliminary assessment of the eligibility and commitment  
15 of any identified prospective adoptive parent or legal guardian,  
16 particularly the caretaker, to include a social history including  
17 screening for criminal records and prior referrals for child abuse  
18 or neglect, the capability to meet the child’s needs, and the  
19 understanding of the legal and financial rights and responsibilities  
20 of adoption and guardianship. If a proposed legal guardian is a  
21 relative of the minor, the assessment shall also consider, but need  
22 not be limited to, all of the factors specified in subdivision (a) of  
23 Section 361.3 and in Section 361.4.

24 (E) The relationship of the child to any identified prospective  
25 adoptive parent or legal guardian, the duration and character of  
26 the relationship, the degree of attachment of the child to the  
27 prospective relative guardian or adoptive parent, the relative’s or  
28 adoptive parent’s strong commitment to caring permanently for  
29 the child, the motivation for seeking adoption or legal guardianship,  
30 a statement from the child concerning placement and the adoption  
31 or legal guardianship, and whether the child, if over 12 years of  
32 age, has been consulted about the proposed relative guardianship  
33 arrangements, unless the child’s age or physical, emotional, or  
34 other condition precludes his or her meaningful response, and if  
35 so, a description of the condition.

36 (F) An analysis of the likelihood that the child will be adopted  
37 if parental rights are terminated.

38 (2) (A) A relative caregiver’s preference for legal guardianship  
39 over adoption, if it is due to circumstances that do not include an  
40 unwillingness to accept legal or financial responsibility for the

1 child, shall not constitute the sole basis for recommending removal  
2 of the child from the relative caregiver for purposes of adoptive  
3 placement.

4 (B) A relative caregiver shall be given information regarding  
5 the permanency options of guardianship and adoption, including  
6 the long-term benefits and consequences of each option, prior to  
7 establishing legal guardianship or pursuing adoption.

8 (c) If, at any hearing held pursuant to Section 366.26, a  
9 guardianship is established for the minor with an approved relative  
10 caregiver, and juvenile court dependency is subsequently  
11 dismissed, the minor shall be eligible for aid under the Kin-GAP  
12 Program, as provided for in Article 4.5 (commencing with Section  
13 11360) or Article 4.7 (commencing with Section 11385), as  
14 applicable, of Chapter 2 of Part 3 of Division 9.

15 (d) As used in this section, “relative” means an adult who is  
16 related to the minor by blood, adoption, or affinity within the fifth  
17 degree of kinship, including stepparents, stepsiblings, and all  
18 relatives whose status is preceded by the words “great,”  
19 “great-great,” or “grand,” or the spouse of any of those persons  
20 even if the marriage was terminated by death or dissolution.

21 (e) The implementation and operation of subdivision (a) enacted  
22 at the 2005–06 Regular Session shall be subject to appropriation  
23 through the budget process and by phase, as provided in Section  
24 366.35.

25 (f) This section shall become operative on January 1, 2014.

26 SEC. 22. Section 366.3 of the Welfare and Institutions Code,  
27 as amended by Section 17 of Chapter 287 of the Statutes of 2009,  
28 is amended to read:

29 366.3. (a) If a juvenile court orders a permanent plan of  
30 adoption, tribal customary adoption, or legal guardianship pursuant  
31 to Section 360 or 366.26, the court shall retain jurisdiction over  
32 the child until the child is adopted or the legal guardianship is  
33 established, except as provided for in Section 366.29 or, on and  
34 after January 1, 2012, Section 366.31. The status of the child shall  
35 be reviewed every six months to ensure that the adoption or legal  
36 guardianship is completed as expeditiously as possible. When the  
37 adoption of the child has been granted, or in the case of a tribal  
38 customary adoption, when the tribal customary adoption order has  
39 been afforded full faith and credit and the petition for adoption  
40 has been granted, the court shall terminate its jurisdiction over the



1 child. Following establishment of a legal guardianship, the court  
2 may continue jurisdiction over the child as a dependent child of  
3 the juvenile court or may terminate its dependency jurisdiction  
4 and retain jurisdiction over the child as a ward of the legal  
5 guardianship, as authorized by Section 366.4. If, however, a relative  
6 of the child is appointed the legal guardian of the child and the  
7 child has been placed with the relative for at least six months, the  
8 court shall, except if the relative guardian objects, or upon a finding  
9 of exceptional circumstances, terminate its dependency jurisdiction  
10 and retain jurisdiction over the child as a ward of the guardianship,  
11 as authorized by Section 366.4. Following a termination of parental  
12 rights, the parent or parents shall not be a party to, or receive notice  
13 of, any subsequent proceedings regarding the child.

14 (b) If the court has dismissed dependency jurisdiction following  
15 the establishment of a legal guardianship, or no dependency  
16 jurisdiction attached because of the granting of a legal guardianship  
17 pursuant to Section 360, and the legal guardianship is subsequently  
18 revoked or otherwise terminated, the county department of social  
19 services or welfare department shall notify the juvenile court of  
20 this fact. The court may vacate its previous order dismissing  
21 dependency jurisdiction over the child.

22 Notwithstanding Section 1601 of the Probate Code, the  
23 proceedings to terminate a legal guardianship that has been granted  
24 pursuant to Section 360 or 366.26 shall be held either in the  
25 juvenile court that retains jurisdiction over the guardianship as  
26 authorized by Section 366.4 or the juvenile court in the county  
27 where the guardian and child currently reside, based on the best  
28 interests of the child, unless the termination is due to the  
29 emancipation or adoption of the child. The juvenile court having  
30 jurisdiction over the guardianship shall receive notice from the  
31 court in which the petition is filed within five calendar days of the  
32 filing. Prior to the hearing on a petition to terminate legal  
33 guardianship pursuant to this subdivision, the court shall order the  
34 county department of social services or welfare department having  
35 jurisdiction or jointly with the county department where the  
36 guardian and child currently reside to prepare a report, for the  
37 court's consideration, that shall include an evaluation of whether  
38 the child could safely remain in, or be returned to, the legal  
39 guardian's home, without terminating the legal guardianship, if  
40 services were provided to the child or legal guardian. If applicable,

1 the report shall also identify recommended family maintenance or  
2 reunification services to maintain the legal guardianship and set  
3 forth a plan for providing those services. If the petition to terminate  
4 legal guardianship is granted, either juvenile court may resume  
5 dependency jurisdiction over the child, and may order the county  
6 department of social services or welfare department to develop a  
7 new permanent plan, which shall be presented to the court within  
8 60 days of the termination. If no dependency jurisdiction has  
9 attached, the social worker shall make any investigation he or she  
10 deems necessary to determine whether the child may be within the  
11 jurisdiction of the juvenile court, as provided in Section 328.

12 Unless the parental rights of the child's parent or parents have  
13 been terminated, they shall be notified that the legal guardianship  
14 has been revoked or terminated and shall be entitled to participate  
15 in the new permanency planning hearing. The court shall try to  
16 place the child in another permanent placement. At the hearing,  
17 the parents may be considered as custodians but the child shall not  
18 be returned to the parent or parents unless they prove, by a  
19 preponderance of the evidence, that reunification is the best  
20 alternative for the child. The court may, if it is in the best interests  
21 of the child, order that reunification services again be provided to  
22 the parent or parents.

23 (c) If, following the establishment of a legal guardianship, the  
24 county welfare department becomes aware of changed  
25 circumstances that indicate adoption or, for an Indian child, tribal  
26 customary adoption, may be an appropriate plan for the child, the  
27 department shall so notify the court. The court may vacate its  
28 previous order dismissing dependency jurisdiction over the child  
29 and order that a hearing be held pursuant to Section 366.26 to  
30 determine whether adoption or continued legal guardianship is the  
31 most appropriate plan for the child. The hearing shall be held no  
32 later than 120 days from the date of the order. If the court orders  
33 that a hearing shall be held pursuant to Section 366.26, the court  
34 shall direct the agency supervising the child and the licensed county  
35 adoption agency, or the State Department of Social Services if it  
36 is acting as an adoption agency in counties that are not served by  
37 a county adoption agency, to prepare an assessment under  
38 subdivision (b) of Section 366.22.

39 (d) If the child or, on and after January 1, 2012, nonminor  
40 dependent is in a placement other than the home of a legal guardian

1 and jurisdiction has not been dismissed, the status of the child shall  
2 be reviewed at least every six months. The review of the status of  
3 a child for whom the court has ordered parental rights terminated  
4 and who has been ordered placed for adoption shall be conducted  
5 by the court. The review of the status of a child or, on and after  
6 January 1, 2012, nonminor dependent for whom the court has not  
7 ordered parental rights terminated and who has not been ordered  
8 placed for adoption may be conducted by the court or an  
9 appropriate local agency. The court shall conduct the review under  
10 the following circumstances:

11 (1) Upon the request of the child's parents or legal guardians.

12 (2) Upon the request of the child or, on and after January 1,  
13 2012, nonminor dependent.

14 (3) It has been 12 months since a hearing held pursuant to  
15 Section 366.26 or an order that the child remain in long-term foster  
16 care pursuant to Section 366.21, 366.22, 366.25, 366.26, or  
17 subdivision (h).

18 (4) It has been 12 months since a review was conducted by the  
19 court.

20 The court shall determine whether or not reasonable efforts to  
21 make and finalize a permanent placement for the child have been  
22 made.

23 (e) Except as provided in subdivision (g), at the review held  
24 every six months pursuant to subdivision (d), the reviewing body  
25 shall inquire about the progress being made to provide a permanent  
26 home for the child, shall consider the safety of the child, and shall  
27 determine all of the following:

28 (1) The continuing necessity for, and appropriateness of, the  
29 placement.

30 (2) Identification of individuals other than the child's siblings  
31 who are important to a child who is 10 years of age or older and  
32 has been in out-of-home placement for six months or longer, and  
33 actions necessary to maintain the child's relationship with those  
34 individuals, provided that those relationships are in the best interest  
35 of the child. The social worker shall ask every child who is 10  
36 years of age or older and who has been in out-of-home placement  
37 for six months or longer to identify individuals other than the  
38 child's siblings who are important to the child, and may ask any  
39 other child to provide that information, as appropriate. The social

1 worker shall make efforts to identify other individuals who are  
2 important to the child, consistent with the child's best interests.

3 (3) The continuing appropriateness and extent of compliance  
4 with the permanent plan for the child, including efforts to maintain  
5 relationships between a child who is 10 years of age or older and  
6 who has been in out-of-home placement for six months or longer  
7 and individuals who are important to the child and efforts to  
8 identify a prospective adoptive parent or legal guardian, including,  
9 but not limited to, child-specific recruitment efforts and listing on  
10 an adoption exchange.

11 (4) The extent of the agency's compliance with the child welfare  
12 services case plan in making reasonable efforts either to return the  
13 child to the safe home of the parent or to complete whatever steps  
14 are necessary to finalize the permanent placement of the child. If  
15 the reviewing body determines that a second period of reunification  
16 services is in the child's best interests, and that there is a significant  
17 likelihood of the child's return to a safe home due to changed  
18 circumstances of the parent, pursuant to subdivision (f), the specific  
19 reunification services required to effect the child's return to a safe  
20 home shall be described.

21 (5) Whether there should be any limitation on the right of the  
22 parent or guardian to make educational decisions for the child.  
23 That limitation shall be specifically addressed in the court order  
24 and may not exceed what is necessary to protect the child. If the  
25 court specifically limits the right of the parent or guardian to make  
26 educational decisions for the child, the court shall at the same time  
27 appoint a responsible adult to make educational decisions for the  
28 child pursuant to Section 361.

29 (6) The adequacy of services provided to the child. The court  
30 shall consider the progress in providing the information and  
31 documents to the child, as described in Section 391. The court  
32 shall also consider the need for, and progress in providing, the  
33 assistance and services described in Section 391.

34 (7) The extent of progress the parents or legal guardians have  
35 made toward alleviating or mitigating the causes necessitating  
36 placement in foster care.

37 (8) The likely date by which the child may be returned to, and  
38 safely maintained in, the home, placed for adoption, legal  
39 guardianship, in another planned permanent living arrangement,

1 or, for an Indian child, in consultation with the child's tribe, placed  
2 for tribal customary adoption.

3 (9) Whether the child has any siblings under the court's  
4 jurisdiction, and, if any siblings exist, all of the following:

5 (A) The nature of the relationship between the child and his or  
6 her siblings.

7 (B) The appropriateness of developing or maintaining the sibling  
8 relationships pursuant to Section 16002.

9 (C) If the siblings are not placed together in the same home,  
10 why the siblings are not placed together and what efforts are being  
11 made to place the siblings together, or why those efforts are not  
12 appropriate.

13 (D) If the siblings are not placed together, the frequency and  
14 nature of the visits between siblings.

15 (E) The impact of the sibling relationships on the child's  
16 placement and planning for legal permanence.

17 The factors the court may consider as indicators of the nature of  
18 the child's sibling relationships include, but are not limited to,  
19 whether the siblings were raised together in the same home,  
20 whether the siblings have shared significant common experiences  
21 or have existing close and strong bonds, whether either sibling  
22 expresses a desire to visit or live with his or her sibling, as  
23 applicable, and whether ongoing contact is in the child's best  
24 emotional interests.

25 (10) For a child who is 16 years of age or older, and, effective  
26 January 1, 2012, for a nonminor dependent, the services needed  
27 to assist the child or nonminor dependent to make the transition  
28 from foster care to independent living.

29 The reviewing body shall determine whether or not reasonable  
30 efforts to make and finalize a permanent placement for the child  
31 have been made.

32 Each licensed foster family agency shall submit reports for each  
33 child in its care, custody, and control to the court concerning the  
34 continuing appropriateness and extent of compliance with the  
35 child's permanent plan, the extent of compliance with the case  
36 plan, and the type and adequacy of services provided to the child.

37 (f) Unless their parental rights have been permanently  
38 terminated, the parent or parents of the child are entitled to receive  
39 notice of, and participate in, those hearings. It shall be presumed  
40 that continued care is in the best interests of the child, unless the

1 parent or parents prove, by a preponderance of the evidence, that  
2 further efforts at reunification are the best alternative for the child.  
3 In those cases, the court may order that further reunification  
4 services to return the child to a safe home environment be provided  
5 to the parent or parents up to a period of six months, and family  
6 maintenance services, as needed for an additional six months in  
7 order to return the child to a safe home environment. On and after  
8 January 1, 2012, this subdivision shall not apply to the parents of  
9 a nonminor dependent.

10 (g) At the review conducted by the court and held at least every  
11 six months, regarding a child for whom the court has ordered  
12 parental rights terminated and who has been ordered placed for  
13 adoption, or, for an Indian child for whom parental rights are not  
14 being terminated and a tribal customary adoption is being  
15 considered, the county welfare department shall prepare and present  
16 to the court a report describing the following:

17 (1) The child's present placement.

18 (2) The child's current physical, mental, emotional, and  
19 educational status.

20 (3) If the child has not been placed with a prospective adoptive  
21 parent or guardian, identification of individuals, other than the  
22 child's siblings, who are important to the child and actions  
23 necessary to maintain the child's relationship with those  
24 individuals, provided that those relationships are in the best interest  
25 of the child. The agency shall ask every child who is 10 years of  
26 age or older to identify any individuals who are important to him  
27 or her, consistent with the child's best interest, and may ask any  
28 child who is younger than 10 years of age to provide that  
29 information as appropriate. The agency shall make efforts to  
30 identify other individuals who are important to the child.

31 (4) Whether the child has been placed with a prospective  
32 adoptive parent or parents.

33 (5) Whether an adoptive placement agreement has been signed  
34 and filed.

35 (6) If the child has not been placed with a prospective adoptive  
36 parent or parents, the efforts made to identify an appropriate  
37 prospective adoptive parent or legal guardian, including, but not  
38 limited to, child-specific recruitment efforts and listing on an  
39 adoption exchange.

1 (7) Whether the final adoption order should include provisions  
2 for postadoptive sibling contact pursuant to Section 366.29.

3 (8) The progress of the search for an adoptive placement if one  
4 has not been identified.

5 (9) Any impediments to the adoption or the adoptive placement.

6 (10) The anticipated date by which the child will be adopted or  
7 placed in an adoptive home.

8 (11) The anticipated date by which an adoptive placement  
9 agreement will be signed.

10 (12) Recommendations for court orders that will assist in the  
11 placement of the child for adoption or in the finalization of the  
12 adoption.

13 The court shall determine whether or not reasonable efforts to  
14 make and finalize a permanent placement for the child have been  
15 made.

16 The court shall make appropriate orders to protect the stability  
17 of the child and to facilitate and expedite the permanent placement  
18 and adoption of the child.

19 (h) At the review held pursuant to subdivision (d) for a child in  
20 long-term foster care, the court shall consider all permanency  
21 planning options for the child including whether the child should  
22 be returned to the home of the parent, placed for adoption, or, for  
23 an Indian child, in consultation with the child's tribe, placed for  
24 tribal customary adoption, or appointed a legal guardian, or, if  
25 compelling reasons exist for finding that none of the foregoing  
26 options are in the best interest of the child, whether the child should  
27 be placed in another planned permanent living arrangement. The  
28 court shall order that a hearing be held pursuant to Section 366.26,  
29 unless it determines by clear and convincing evidence that there  
30 is a compelling reason for determining that a hearing held pursuant  
31 to Section 366.26 is not in the best interest of the child because  
32 the child is being returned to the home of the parent, the child is  
33 not a proper subject for adoption, or no one is willing to accept  
34 legal guardianship. If the licensed county adoption agency, or the  
35 department when it is acting as an adoption agency in counties  
36 that are not served by a county adoption agency, has determined  
37 it is unlikely that the child will be adopted or one of the conditions  
38 described in paragraph (1) of subdivision (c) of Section 366.26  
39 applies, that fact shall constitute a compelling reason for purposes  
40 of this subdivision. Only upon that determination may the court

1 order that the child remain in long-term foster care, without holding  
2 a hearing pursuant to Section 366.26. On and after January 1, 2012,  
3 the nonminor dependent's legal status as an adult is in and of itself  
4 a compelling reason not to hold a hearing pursuant to Section  
5 366.26.

6 (i) If, as authorized by subdivision (h), the court orders a hearing  
7 pursuant to Section 366.26, the court shall direct the agency  
8 supervising the child and the licensed county adoption agency, or  
9 the State Department of Social Services when it is acting as an  
10 adoption agency in counties that are not served by a county  
11 adoption agency, to prepare an assessment as provided for in  
12 subdivision (i) of Section 366.21 or subdivision (b) of Section  
13 366.22. A hearing held pursuant to Section 366.26 shall be held  
14 no later than 120 days from the date of the 12-month review at  
15 which it is ordered, and at that hearing the court shall determine  
16 whether adoption, tribal customary adoption, legal guardianship,  
17 or long-term foster care is the most appropriate plan for the child.  
18 On and after January 1, 2012, a hearing pursuant to Section 366.26  
19 shall not be ordered if the child is a nonminor dependent. The court  
20 may order that a nonminor dependent who otherwise is eligible  
21 pursuant to Section 11403 remain in a planned, permanent living  
22 arrangement.

23 (j) The implementation and operation of the amendments to  
24 subdivision (e) enacted at the 2005–06 Regular Session shall be  
25 subject to appropriation through the budget process and by phase,  
26 as provided in Section 366.35.

27 (k) The reviews conducted pursuant to subdivision (a) or (d)  
28 may be conducted earlier than every six months if the court  
29 determines that an earlier review is in the best interests of the child  
30 or as court rules prescribe.

31 (l) On and after January 1, 2012, at the review hearing that  
32 occurs in the six-month period prior to the minor's attaining 18  
33 years of age, and at every subsequent review hearing for the  
34 nonminor dependent, the report shall describe all of the following:

35 (1) The minor's or nonminor dependent's plans to remain in  
36 foster care and plans to meet one or more of the criteria as  
37 described in subdivision (b) of Section 11403 to continue to receive  
38 AFDC-FC benefits.

39 (2) The efforts made and assistance provided to the minor or  
40 nonminor dependent by the social worker or the probation officer



1 so that the minor or nonminor dependent will be able to meet the  
2 criteria.

3 (3) Efforts toward completing the items described in paragraph  
4 (2) of subdivision (e) of Section 391.

5 (m) On and after January 1, 2012, the reviews conducted  
6 pursuant to subdivisions (e) and (h) for any nonminor dependent  
7 shall be conducted in a manner that respects the nonminor's status  
8 as a legal adult, be focused on the goals and services described in  
9 the youth's transitional independent living case plan, including  
10 efforts made to achieve permanence, including maintaining or  
11 obtaining permanent connections with caring and committed adults,  
12 and attended as appropriate by additional participants invited by  
13 the nonminor dependent. The review shall include all the issues  
14 in subdivision (e), except paragraph (5) of subdivision (e). The  
15 county child welfare or probation department, or Indian tribe that  
16 has entered into an agreement pursuant to Section 10553.1 shall  
17 prepare and present to the reviewing body a report that addresses  
18 the youth's progress in meeting the goals in the transitional  
19 independent living case plan and propose modifications as  
20 necessary to further those goals. The report shall document that  
21 the nonminor has received all the information and documentation  
22 described in paragraph (2) of subdivision (e) of Section 391. If the  
23 court is considering terminating dependency jurisdiction for a  
24 nonminor dependent it shall first hold a hearing pursuant to Section  
25 391.

26 (n) On and after January 1, 2012, if a review hearing pursuant  
27 to this section is the last review hearing to be held before the child  
28 attains 18 years of age, the court shall ensure all of the following:

29 (1) That the child's transitional independent living case plan  
30 includes a plan for the child to satisfy one or more of the criteria  
31 set forth in subdivision (b) of Section 11403, so that the child is  
32 eligible to remain a nonminor dependent.

33 (2) That the child has been informed of his or her right to seek  
34 termination of dependency jurisdiction pursuant to Section 391,  
35 and understands the potential benefits of continued dependency.

36 (3) That the child is informed of his or her right to have  
37 dependency reinstated pursuant to subdivision (e) of Section 388,  
38 and understands the potential benefits of continued dependency.

1 (o) This section shall remain in effect only until January 1, 2014,  
2 and as of that date is repealed, unless a later enacted statute, that  
3 is enacted before January 1, 2014, deletes or extends that date.

4 SEC. 23. Section 366.3 of the Welfare and Institutions Code,  
5 as added by Section 18 of Chapter 287 of the Statutes of 2009, is  
6 amended to read:

7 366.3. (a) If a juvenile court orders a permanent plan of  
8 adoption or legal guardianship pursuant to Section 360 or 366.26,  
9 the court shall retain jurisdiction over the child until the child is  
10 adopted or the legal guardianship is established, except as provided  
11 for in Section 366.29 or, on and after January 1, 2012, Section  
12 366.31. The status of the child shall be reviewed every six months  
13 to ensure that the adoption or legal guardianship is completed as  
14 expeditiously as possible. When the adoption of the child has been  
15 granted, the court shall terminate its jurisdiction over the child.  
16 Following establishment of a legal guardianship, the court may  
17 continue jurisdiction over the child as a dependent child of the  
18 juvenile court or may terminate its dependency jurisdiction and  
19 retain jurisdiction over the child as a ward of the legal guardianship,  
20 as authorized by Section 366.4. If, however, a relative of the child  
21 is appointed the legal guardian of the child and the child has been  
22 placed with the relative for at least six months, the court shall,  
23 except if the relative guardian objects, or upon a finding of  
24 exceptional circumstances, terminate its dependency jurisdiction  
25 and retain jurisdiction over the child as a ward of the guardianship,  
26 as authorized by Section 366.4. Following a termination of parental  
27 rights, the parent or parents shall not be a party to, or receive notice  
28 of, any subsequent proceedings regarding the child.

29 (b) If the court has dismissed dependency jurisdiction following  
30 the establishment of a legal guardianship, or no dependency  
31 jurisdiction attached because of the granting of a legal guardianship  
32 pursuant to Section 360, and the legal guardianship is subsequently  
33 revoked or otherwise terminated, the county department of social  
34 services or welfare department shall notify the juvenile court of  
35 this fact. The court may vacate its previous order dismissing  
36 dependency jurisdiction over the child.

37 Notwithstanding Section 1601 of the Probate Code, the  
38 proceedings to terminate a legal guardianship that has been granted  
39 pursuant to Section 360 or 366.26 shall be held either in the  
40 juvenile court that retains jurisdiction over the guardianship as

1 authorized by Section 366.4 or the juvenile court in the county  
2 where the guardian and child currently reside, based on the best  
3 interests of the child, unless the termination is due to the  
4 emancipation or adoption of the child. The juvenile court having  
5 jurisdiction over the guardianship shall receive notice from the  
6 court in which the petition is filed within five calendar days of the  
7 filing. Prior to the hearing on a petition to terminate legal  
8 guardianship pursuant to this subdivision, the court shall order the  
9 county department of social services or welfare department having  
10 jurisdiction or jointly with the county department where the  
11 guardian and child currently reside to prepare a report, for the  
12 court's consideration, that shall include an evaluation of whether  
13 the child could safely remain in, or be returned to, the legal  
14 guardian's home, without terminating the legal guardianship, if  
15 services were provided to the child or legal guardian. If applicable,  
16 the report shall also identify recommended family maintenance or  
17 reunification services to maintain the legal guardianship and set  
18 forth a plan for providing those services. If the petition to terminate  
19 legal guardianship is granted, either juvenile court may resume  
20 dependency jurisdiction over the child, and may order the county  
21 department of social services or welfare department to develop a  
22 new permanent plan, which shall be presented to the court within  
23 60 days of the termination. If no dependency jurisdiction has  
24 attached, the social worker shall make any investigation he or she  
25 deems necessary to determine whether the child may be within the  
26 jurisdiction of the juvenile court, as provided in Section 328.

27 Unless the parental rights of the child's parent or parents have  
28 been terminated, they shall be notified that the legal guardianship  
29 has been revoked or terminated and shall be entitled to participate  
30 in the new permanency planning hearing. The court shall try to  
31 place the child in another permanent placement. At the hearing,  
32 the parents may be considered as custodians but the child shall not  
33 be returned to the parent or parents unless they prove, by a  
34 preponderance of the evidence, that reunification is the best  
35 alternative for the child. The court may, if it is in the best interests  
36 of the child, order that reunification services again be provided to  
37 the parent or parents.

38 (c) If, following the establishment of a legal guardianship, the  
39 county welfare department becomes aware of changed  
40 circumstances that indicate adoption may be an appropriate plan

1 for the child, the department shall so notify the court. The court  
2 may vacate its previous order dismissing dependency jurisdiction  
3 over the child and order that a hearing be held pursuant to Section  
4 366.26 to determine whether adoption or continued legal  
5 guardianship is the most appropriate plan for the child. The hearing  
6 shall be held no later than 120 days from the date of the order. If  
7 the court orders that a hearing shall be held pursuant to Section  
8 366.26, the court shall direct the agency supervising the child and  
9 the licensed county adoption agency, or the State Department of  
10 Social Services if it is acting as an adoption agency in counties  
11 that are not served by a county adoption agency, to prepare an  
12 assessment under subdivision (b) of Section 366.22.

13 (d) If the child or, on and after January 1, 2012, nonminor  
14 dependent is in a placement other than the home of a legal guardian  
15 and jurisdiction has not been dismissed, the status of the child shall  
16 be reviewed at least every six months. The review of the status of  
17 a child for whom the court has ordered parental rights terminated  
18 and who has been ordered placed for adoption shall be conducted  
19 by the court. The review of the status of a child or, on and after  
20 January 1, 2012, nonminor dependent for whom the court has not  
21 ordered parental rights terminated and who has not been ordered  
22 placed for adoption may be conducted by the court or an  
23 appropriate local agency. The court shall conduct the review under  
24 the following circumstances:

25 (1) Upon the request of the child's parents or legal guardians.

26 (2) Upon the request of the child or, on and after January 1,  
27 2012, nonminor dependent.

28 (3) It has been 12 months since a hearing held pursuant to  
29 Section 366.26 or an order that the child remain in long-term foster  
30 care pursuant to Section 366.21, 366.22, 366.25, 366.26, or  
31 subdivision (h).

32 (4) It has been 12 months since a review was conducted by the  
33 court.

34 The court shall determine whether or not reasonable efforts to  
35 make and finalize a permanent placement for the child have been  
36 made.

37 (e) Except as provided in subdivision (g), at the review held  
38 every six months pursuant to subdivision (d), the reviewing body  
39 shall inquire about the progress being made to provide a permanent

1 home for the child, shall consider the safety of the child, and shall  
2 determine all of the following:

3 (1) The continuing necessity for, and appropriateness of, the  
4 placement.

5 (2) Identification of individuals other than the child's siblings  
6 who are important to a child who is 10 years of age or older and  
7 has been in out-of-home placement for six months or longer, and  
8 actions necessary to maintain the child's relationship with those  
9 individuals, provided that those relationships are in the best interest  
10 of the child. The social worker shall ask every child who is 10  
11 years of age or older and who has been in out-of-home placement  
12 for six months or longer to identify individuals other than the  
13 child's siblings who are important to the child, and may ask any  
14 other child to provide that information, as appropriate. The social  
15 worker shall make efforts to identify other individuals who are  
16 important to the child, consistent with the child's best interests.

17 (3) The continuing appropriateness and extent of compliance  
18 with the permanent plan for the child, including efforts to maintain  
19 relationships between a child who is 10 years of age or older and  
20 who has been in out-of-home placement for six months or longer  
21 and individuals who are important to the child and efforts to  
22 identify a prospective adoptive parent or legal guardian, including,  
23 but not limited to, child-specific recruitment efforts and listing on  
24 an adoption exchange.

25 (4) The extent of the agency's compliance with the child welfare  
26 services case plan in making reasonable efforts either to return the  
27 child to the safe home of the parent or to complete whatever steps  
28 are necessary to finalize the permanent placement of the child. If  
29 the reviewing body determines that a second period of reunification  
30 services is in the child's best interests, and that there is a significant  
31 likelihood of the child's return to a safe home due to changed  
32 circumstances of the parent, pursuant to subdivision (f), the specific  
33 reunification services required to effect the child's return to a safe  
34 home shall be described.

35 (5) Whether there should be any limitation on the right of the  
36 parent or guardian to make educational decisions for the child.  
37 That limitation shall be specifically addressed in the court order  
38 and may not exceed what is necessary to protect the child. If the  
39 court specifically limits the right of the parent or guardian to make  
40 educational decisions for the child, the court shall at the same time

1 appoint a responsible adult to make educational decisions for the  
2 child pursuant to Section 361.

3 (6) The adequacy of services provided to the child. The court  
4 shall consider the progress in providing the information and  
5 documents to the child, as described in Section 391. The court  
6 shall also consider the need for, and progress in providing, the  
7 assistance and services described in Section 391.

8 (7) The extent of progress the parents or legal guardians have  
9 made toward alleviating or mitigating the causes necessitating  
10 placement in foster care.

11 (8) The likely date by which the child may be returned to, and  
12 safely maintained in, the home, placed for adoption, legal  
13 guardianship, or in another planned permanent living arrangement.

14 (9) Whether the child has any siblings under the court's  
15 jurisdiction, and, if any siblings exist, all of the following:

16 (A) The nature of the relationship between the child and his or  
17 her siblings.

18 (B) The appropriateness of developing or maintaining the sibling  
19 relationships pursuant to Section 16002.

20 (C) If the siblings are not placed together in the same home,  
21 why the siblings are not placed together and what efforts are being  
22 made to place the siblings together, or why those efforts are not  
23 appropriate.

24 (D) If the siblings are not placed together, the frequency and  
25 nature of the visits between siblings.

26 (E) The impact of the sibling relationships on the child's  
27 placement and planning for legal permanence.

28 The factors the court may consider as indicators of the nature of  
29 the child's sibling relationships include, but are not limited to,  
30 whether the siblings were raised together in the same home,  
31 whether the siblings have shared significant common experiences  
32 or have existing close and strong bonds, whether either sibling  
33 expresses a desire to visit or live with his or her sibling, as  
34 applicable, and whether ongoing contact is in the child's best  
35 emotional interests.

36 (10) For a child who is 16 years of age or older, and, effective  
37 January 1, 2012, for a nonminor dependent, the services needed  
38 to assist the child or nonminor dependent to make the transition  
39 from foster care to independent living.

1 The reviewing body shall determine whether or not reasonable  
2 efforts to make and finalize a permanent placement for the child  
3 have been made.

4 Each licensed foster family agency shall submit reports for each  
5 child in its care, custody, and control to the court concerning the  
6 continuing appropriateness and extent of compliance with the  
7 child's permanent plan, the extent of compliance with the case  
8 plan, and the type and adequacy of services provided to the child.

9 (f) Unless their parental rights have been permanently  
10 terminated, the parent or parents of the child are entitled to receive  
11 notice of, and participate in, those hearings. It shall be presumed  
12 that continued care is in the best interests of the child, unless the  
13 parent or parents prove, by a preponderance of the evidence, that  
14 further efforts at reunification are the best alternative for the child.  
15 In those cases, the court may order that further reunification  
16 services to return the child to a safe home environment be provided  
17 to the parent or parents up to a period of six months, and family  
18 maintenance services, as needed for an additional six months in  
19 order to return the child to a safe home environment.

20 (g) At the review conducted by the court and held at least every  
21 six months, regarding a child for whom the court has ordered  
22 parental rights terminated and who has been ordered placed for  
23 adoption, the county welfare department shall prepare and present  
24 to the court a report describing the following:

25 (1) The child's present placement.

26 (2) The child's current physical, mental, emotional, and  
27 educational status.

28 (3) If the child has not been placed with a prospective adoptive  
29 parent or guardian, identification of individuals, other than the  
30 child's siblings, who are important to the child and actions  
31 necessary to maintain the child's relationship with those  
32 individuals, provided that those relationships are in the best interest  
33 of the child. The agency shall ask every child who is 10 years of  
34 age or older to identify any individuals who are important to him  
35 or her, consistent with the child's best interest, and may ask any  
36 child who is younger than 10 years of age to provide that  
37 information as appropriate. The agency shall make efforts to  
38 identify other individuals who are important to the child.

39 (4) Whether the child has been placed with a prospective  
40 adoptive parent or parents.

1 (5) Whether an adoptive placement agreement has been signed  
2 and filed.

3 (6) If the child has not been placed with a prospective adoptive  
4 parent or parents, the efforts made to identify an appropriate  
5 prospective adoptive parent or legal guardian, including, but not  
6 limited to, child-specific recruitment efforts and listing on an  
7 adoption exchange.

8 (7) Whether the final adoption order should include provisions  
9 for postadoptive sibling contact pursuant to Section 366.29.

10 (8) The progress of the search for an adoptive placement if one  
11 has not been identified.

12 (9) Any impediments to the adoption or the adoptive placement.

13 (10) The anticipated date by which the child will be adopted or  
14 placed in an adoptive home.

15 (11) The anticipated date by which an adoptive placement  
16 agreement will be signed.

17 (12) Recommendations for court orders that will assist in the  
18 placement of the child for adoption or in the finalization of the  
19 adoption.

20 The court shall determine whether or not reasonable efforts to  
21 make and finalize a permanent placement for the child have been  
22 made.

23 The court shall make appropriate orders to protect the stability  
24 of the child and to facilitate and expedite the permanent placement  
25 and adoption of the child.

26 (h) At the review held pursuant to subdivision (d) for a child in  
27 long-term foster care, the court shall consider all permanency  
28 planning options for the child including whether the child should  
29 be returned to the home of the parent, placed for adoption, or  
30 appointed a legal guardian, or, if compelling reasons exist for  
31 finding that none of the foregoing options are in the best interest  
32 of the child, whether the child should be placed in another planned  
33 permanent living arrangement. The court shall order that a hearing  
34 be held pursuant to Section 366.26, unless it determines by clear  
35 and convincing evidence that there is a compelling reason for  
36 determining that a hearing held pursuant to Section 366.26 is not  
37 in the best interest of the child because the child is being returned  
38 to the home of the parent, the child is not a proper subject for  
39 adoption, or no one is willing to accept legal guardianship. If the  
40 licensed county adoption agency, or the department when it is



1 acting as an adoption agency in counties that are not served by a  
2 county adoption agency, has determined it is unlikely that the child  
3 will be adopted or one of the conditions described in paragraph  
4 (1) of subdivision (c) of Section 366.26 applies, that fact shall  
5 constitute a compelling reason for purposes of this subdivision.  
6 Only upon that determination may the court order that the child  
7 remain in foster care, without holding a hearing pursuant to Section  
8 366.26. On and after January 1, 2012, the nonminor dependent's  
9 legal status as an adult is in and of itself a compelling reason not  
10 to hold a hearing pursuant to Section 366.26.

11 (i) If, as authorized by subdivision (h), the court orders a hearing  
12 pursuant to Section 366.26, the court shall direct the agency  
13 supervising the child and the licensed county adoption agency, or  
14 the State Department of Social Services when it is acting as an  
15 adoption agency in counties that are not served by a county  
16 adoption agency, to prepare an assessment as provided for in  
17 subdivision (i) of Section 366.21 or subdivision (b) of Section  
18 366.22. A hearing held pursuant to Section 366.26 shall be held  
19 no later than 120 days from the date of the 12-month review at  
20 which it is ordered, and at that hearing the court shall determine  
21 whether adoption, legal guardianship, or long-term foster care is  
22 the most appropriate plan for the child. On and after January 1,  
23 2012, a hearing pursuant to Section 366.26 shall not be ordered if  
24 the child is a nonminor dependent. The court may order that a  
25 nonminor dependent who otherwise is eligible pursuant to Section  
26 11403 remain in a planned, permanent living arrangement.

27 (j) The implementation and operation of the amendments to  
28 subdivision (e) enacted at the 2005–06 Regular Session shall be  
29 subject to appropriation through the budget process and by phase,  
30 as provided in Section 366.35.

31 (k) The reviews conducted pursuant to subdivision (a) or (d)  
32 may be conducted earlier than every six months if the court  
33 determines that an earlier review is in the best interests of the child  
34 or as court rules prescribe.

35 (l) On and after October 1, 2012, at the review hearing that  
36 occurs in the six-month period prior to the minor's attaining 18  
37 years of age, and at every subsequent review hearing, the report  
38 shall describe all of the following:

1 (1) The minor's plans to remain in foster care and plans to meet  
2 one or more of the criteria as described in subdivision (b) of Section  
3 11403 to continue to receive AFDC-FC benefits.

4 (2) The efforts made and assistance provided to the minor by  
5 the social worker or the probation officer so that the minor will be  
6 able to meet the criteria.

7 (3) Efforts toward completing the items described in paragraph  
8 (2) of subdivision (e) of Section 391.

9 (m) On and after January 1, 2012, the reviews conducted  
10 pursuant to subdivisions (e) and (h) for any nonminor dependent  
11 shall be conducted in a manner that respects the nonminor's status  
12 as a legal adult, be focused on the goals and services described in  
13 the youth's transitional independent living case plan, including  
14 efforts made to maintain connections with caring and permanently  
15 committed adults, and attended as appropriate by additional  
16 participants invited by the nonminor dependent. The review shall  
17 include all the issues in subdivision (e), except paragraph (5) of  
18 subdivision (e). The county child welfare or probation department,  
19 or Indian tribe that has entered into an agreement pursuant to  
20 Section 10553.1 shall prepare and present to the reviewing body  
21 a report that addresses the youth's progress in meeting the goals  
22 in the transitional independent living case plan and propose  
23 modifications as necessary to further those goals. The report shall  
24 document that the nonminor has received all the information and  
25 documentation described in paragraph (2) of subdivision (e) of  
26 Section 391. If the court is considering terminating dependency  
27 jurisdiction for a nonminor dependent it shall first hold a hearing  
28 pursuant to Section 391.

29 (n) On and after January 1, 2012, if a review hearing pursuant  
30 to this section is the last review hearing to be held before the child  
31 attains 18 years of age, the court shall ensure all of the following:

32 (1) That the child's transitional independent living case plan  
33 includes a plan for the child to satisfy one or more of the criteria  
34 set forth in subdivision (b) of Section 11403, so that the child is  
35 eligible to remain a nonminor dependent.

36 (2) That the child has been informed of his or her right to seek  
37 termination of dependency jurisdiction pursuant to Section 391,  
38 and understands the potential benefits of continued dependency.

1 (3) That the child is informed of his or her right to have  
2 dependency reinstated pursuant to subdivision (e) of Section 388,  
3 and understands the potential benefits of continued dependency.

4 (o) This section shall become operative on January 1, 2014.

5 SEC. 24. Section 366.31 is added to the Welfare and  
6 Institutions Code, to read:

7 366.31. (a) On and after January 1, 2012, with respect to a  
8 nonminor dependent, as defined in subdivision (v) of Section  
9 11400, who has a permanent plan of long-term foster care that was  
10 ordered pursuant to Section 366.21, 366.22, 366.25, or 366.26 the  
11 court may continue jurisdiction of the nonminor as a dependent  
12 of the juvenile court or may dismiss dependency jurisdiction  
13 pursuant to Section 391.

14 (b) If the court continues dependency jurisdiction of the  
15 nonminor as a dependent of the juvenile court, the court shall order  
16 the development of a planned permanent living arrangement, which  
17 may include continued placement with the current caregiver or  
18 another licensed or approved caregiver or placement under a mutual  
19 agreement pursuant to Section 11403, or in supervised independent  
20 living, consistent with the youth's transitional independent living  
21 case plan.

22 (c) If the court terminates its dependency jurisdiction over a  
23 nonminor dependent pursuant to subdivision (a), it shall retain  
24 jurisdiction over the youth pursuant to Section 303. Consistent  
25 with paragraph (e) of Section 1356.21 of Title 45 of the Code of  
26 Federal Regulations, the court shall authorize a trial period of  
27 independence away from foster care as defined in subdivision (y)  
28 of Section 11400. The court shall set the end date of the trial period  
29 of Independence away from foster care to be the day prior to the  
30 day the nonminor attains 21 years of age, unless to do so is not in  
31 the nonminor's best interests. If the court has dismissed dependency  
32 jurisdiction pursuant to subdivision (d) of Section 391, the  
33 nonminor, who has not attained 21 years of age, may subsequently  
34 file a petition pursuant to subdivision (e) of Section 388 to have  
35 dependency jurisdiction resumed and the court may vacate its  
36 previous order dismissing dependency jurisdiction over the  
37 nonminor dependent.

38 SEC. 25. Section 366.4 of the Welfare and Institutions Code  
39 is amended to read:

1 366.4. (a) Any minor for whom a guardianship has been  
2 established resulting from the selection or implementation of a  
3 permanency plan pursuant to Section 366.26, or for whom a related  
4 guardianship has been established pursuant to Section 360, or, on  
5 and after the date that the director executes a declaration pursuant  
6 to Section 11217, a nonminor who is receiving Kin-GAP payments  
7 pursuant to Section 11363 11386, or, on or after January 1, 2012,  
8 a nonminor former dependent child of the juvenile court who is  
9 receiving AFDC-FC benefits pursuant to Section 11405, is within  
10 the jurisdiction of the juvenile court. For those minors, Part 2  
11 (commencing with Section 1500) of Division 4 of the Probate  
12 Code, relating to guardianship, shall not apply. If no specific  
13 provision of this code or the California Rules of Court is applicable,  
14 the provisions applicable to the administration of estates under  
15 Part 4 (commencing with Section 2100) of Division 4 of the  
16 Probate Code govern so far as they are applicable to like situations.

17 (b) Nonrelated legal guardians of the person of a guardianship  
18 pursuant to Section 360 or 366.26 shall be exempt from the  
19 provisions of Sections 2850 and 2851 of the Probate Code.

20 SEC. 26. Section 388 of the Welfare and Institutions Code is  
21 amended to read:

22 388. (a) Any parent or other person having an interest in a  
23 child who is a dependent child of the juvenile court or the child  
24 himself or herself through a properly appointed guardian may,  
25 upon grounds of change of circumstance or new evidence, petition  
26 the court in the same action in which the child was found to be a  
27 dependent child of the juvenile court or in which a guardianship  
28 was ordered pursuant to Section 360 for a hearing to change,  
29 modify, or set aside any order of court previously made or to  
30 terminate the jurisdiction of the court. The petition shall be verified  
31 and, if made by a person other than the child, shall state the  
32 petitioner's relationship to or interest in the child and shall set forth  
33 in concise language any change of circumstance or new evidence  
34 that are alleged to require the change of order or termination of  
35 jurisdiction.

36 (b) Any person, including a child who is a dependent of the  
37 juvenile court, may petition the court to assert a relationship as a  
38 sibling related by blood, adoption, or affinity through a common  
39 legal or biological parent to a child who is, or is the subject of a  
40 petition for adjudication as, a dependent of the juvenile court, and

1 may request visitation with the dependent child, placement with  
2 or near the dependent child, or consideration when determining  
3 or implementing a case plan or permanent plan for the dependent  
4 child or make any other request for an order which may be shown  
5 to be in the best interest of the dependent child. The court may  
6 appoint a guardian ad litem to file the petition for the dependent  
7 child asserting the sibling relationship if the court determines that  
8 the appointment is necessary for the best interests of the dependent  
9 child. The petition shall be verified and shall set forth the  
10 following:

11 (1) Through which parent he or she is related to the dependent  
12 child.

13 (2) Whether he or she is related to the dependent child by blood,  
14 adoption, or affinity.

15 (3) The request or order that the petitioner is seeking.

16 (4) Why that request or order is in the best interest of the  
17 dependent child.

18 (c) (1) Any party, including a child who is a dependent of the  
19 juvenile court, may petition the court, prior to the hearing set  
20 pursuant to subdivision (f) of Section 366.21 for a child described  
21 by subparagraph (A) of paragraph (1) of subdivision (a) of Section  
22 361.5, or prior to the hearing set pursuant to subdivision (e) of  
23 Section 366.21 for a child described by subparagraph (B) or (C)  
24 of paragraph (1) of subdivision (a) of Section 361.5, to terminate  
25 court-ordered reunification services provided under subdivision  
26 (a) of Section 361.5 only if one of the following conditions exists:

27 (A) It appears that a change of circumstance or new evidence  
28 exists that satisfies a condition set forth in subdivision (b) or (e)  
29 of Section 361.5 justifying termination of court-ordered  
30 reunification services.

31 (B) The action or inaction of the parent or guardian creates a  
32 substantial likelihood that reunification will not occur, including,  
33 but not limited to, the parent or guardian's failure to visit the child,  
34 or the failure of the parent or guardian to participate regularly and  
35 make substantive progress in a court-ordered treatment plan.

36 (2) In determining whether the parent or guardian has failed to  
37 visit the child or participate regularly or make progress in the  
38 treatment plan, the court shall consider factors including, but not  
39 limited to, the parent or guardian's incarceration,

1 institutionalization, or participation in a court-ordered residential  
2 substance abuse treatment program.

3 (3) The court shall terminate reunification services during the  
4 above-described time periods only upon a finding by a  
5 preponderance of evidence that reasonable services have been  
6 offered or provided, and upon a finding of clear and convincing  
7 evidence that one of the conditions in subparagraph (A) or (B) of  
8 paragraph (1) exists.

9 (4) If the court terminates reunification services, it shall order  
10 that a hearing pursuant to Section 366.26 be held within 120 days.

11 (d) If it appears that the best interests of the child may be  
12 promoted by the proposed change of order, recognition of a sibling  
13 relationship, termination of jurisdiction, or clear and convincing  
14 evidence supports revocation or termination of court-ordered  
15 reunification services, the court shall order that a hearing be held  
16 and shall give prior notice, or cause prior notice to be given, to the  
17 persons and by the means prescribed by Section 386, and, in those  
18 instances in which the means of giving notice is not prescribed by  
19 those sections, then by means the court prescribes.

20 (e) (1) On and after January 1, 2012, a nonminor who has not  
21 attained 19 years of age, or, commencing January 1, 2013, 20 years  
22 of age, or, commencing January 1, 2014, 21 years of age, for whom  
23 the court has dismissed dependency jurisdiction pursuant to Section  
24 391, or delinquency jurisdiction pursuant to subdivision (e) of  
25 Section 785, but has retained general jurisdiction under Section  
26 303, and has ordered a period of trial independence may petition  
27 the court in the same action in which the child was found to be a  
28 dependent or delinquent child of the juvenile court for a hearing  
29 to resume the dependency or delinquency jurisdiction of the court.  
30 The petition shall be filed within the trial period of independence.

31 (2) The petition to resume dependency or delinquency  
32 jurisdiction may be filed in the juvenile court that retains  
33 jurisdiction under subdivision (b) of Section 303 or the juvenile  
34 court in the county where the youth resides. The juvenile court  
35 having jurisdiction under Section 303 shall receive the petition  
36 from the court in which the petition is filed within five court days  
37 of the filing if the petition is filed in the county of residence. Upon  
38 filing of the petition, the court shall order that a hearing be held,  
39 if there is a prima facie showing that the nonminor satisfies at least  
40 one of the conditions in subdivision (b) of Section 11403. Upon

1 ordering a hearing, the court shall give prior notice, or cause prior  
2 notice to be given, to the persons and by the means prescribed by  
3 Section 386, except that notice to parents or former guardians shall  
4 not be provided if the nonminor objects, in writing, on the face of  
5 the petition.

6 (3) The Judicial Council, by January 1, 2012, shall adopt rules  
7 of court to allow for telephonic appearances by nonminor former  
8 dependents or delinquents in these proceedings.

9 (4) Prior to the hearing on a petition to resume dependency  
10 jurisdiction, the court shall order the county child welfare or  
11 probation department or Indian tribe that has entered into an  
12 agreement pursuant to Section 10553.1 to prepare a report for the  
13 court addressing whether the nonminor is able to meet at least one  
14 of the criteria set forth in subdivision (b) of Section 11403. When  
15 the recommendation is for the nonminor dependent to be placed  
16 in a setting where minor dependents also reside, the results of a  
17 background check of the petitioning nonminor conducted pursuant  
18 to Section 16504.5, used by the placing agency to determine  
19 appropriate placement options for the nonminor. The existence of  
20 a criminal conviction is not a bar to eligibility for reentry or  
21 resumption of dependency jurisdiction of a nonminor.

22 (5) The court, if it finds that the nonminor is able to meet at  
23 least one of the criteria set forth in subdivision (b) of Section  
24 11403, shall resume dependency or delinquency jurisdiction and  
25 order the county child welfare or probation department or tribe to  
26 develop a new transitional independent living case plan with the  
27 youth, which shall be presented to the court within 60 days of the  
28 resumption of the dependency or delinquency jurisdiction.

29 *(f) A parent or other person having an interest in a child who*  
30 *was removed from his or her parents or guardian and placed in*  
31 *foster care under jurisdiction established pursuant to Section 601*  
32 *or 602, which is to be terminated, may file a supplemental petition*  
33 *with the court, consistent with subdivision (d) of Section 241.1, to*  
34 *modify the court's jurisdiction in order to establish jurisdiction*  
35 *pursuant to Section 300, if the child appears to come within the*  
36 *description of Section 300 and cannot be returned home safely.*

37 SEC. 27. Section 391 of the Welfare and Institutions Code is  
38 amended to read:

1 391. (a) At any hearing to terminate jurisdiction over a  
2 dependent child who has reached the age of majority, the county  
3 welfare department shall do all of the following:

4 (1) Ensure that the child is present in court, unless the child  
5 does not wish to appear in court, or document efforts by the county  
6 welfare department to locate the child when the child is not  
7 available.

8 (2) Submit a report verifying that the following information,  
9 documents, and services have been provided to the child:

10 (A) Written information concerning the child's dependency  
11 case, including any known information regarding the child's Indian  
12 heritage or tribal connections, if applicable, his or her family  
13 history and placement history, any photographs of the child or his  
14 or her family in the possession of the county welfare department,  
15 other than forensic photographs, the whereabouts of any siblings  
16 under the jurisdiction of the juvenile court, unless the court  
17 determines that sibling contact would jeopardize the safety or  
18 welfare of the sibling, directions on how to access the documents  
19 the child is entitled to inspect under Section 827, and the date on  
20 which the jurisdiction of the juvenile court would be terminated.

21 (B) The following documents:

22 (i) Social security card.

23 (ii) Certified birth certificate.

24 (iii) Health and education summary, as described in subdivision  
25 (a) of Section 16010.

26 (iv) Driver's license, as described in Section 12500 of the  
27 Vehicle Code, or identification card, as described in Section 13000  
28 of the Vehicle Code.

29 (v) A letter prepared by the county welfare department that  
30 includes the following information:

31 (I) The child's name and date of birth.

32 (II) The dates during which the child was within the jurisdiction  
33 of the juvenile court.

34 (III) A statement that the child was a foster youth in compliance  
35 with state and federal financial aid documentation requirements.

36 (vi) If applicable, the death certificate of the parent or parents.

37 (vii) If applicable, proof of the child's citizenship or legal  
38 residence.

39 (C) Assistance in completing an application for Medi-Cal or  
40 assistance in obtaining other health insurance; referral to



1 transitional housing, if available, or assistance in securing other  
2 housing; and assistance in obtaining employment or other financial  
3 support.

4 (D) Assistance in applying for admission to college or to a  
5 vocational training program or other educational institution and  
6 in obtaining financial aid, where appropriate.

7 (E) Assistance in maintaining relationships with individuals  
8 who are important to a child who has been in out-of-home  
9 placement for six months or longer from the date the child entered  
10 foster care, based on the child's best interests.

11 (3) The court may continue jurisdiction if it finds that the county  
12 welfare department has not met the requirements of paragraph (2)  
13 of subdivision (a) and that termination of jurisdiction would be  
14 harmful to the best interests of the child. If the court determines  
15 that continued jurisdiction is warranted pursuant to this section,  
16 the continuation shall only be ordered for that period of time  
17 necessary for the county welfare department to meet the  
18 requirements of paragraph (2) of subdivision (a). This section shall  
19 not be construed to limit the discretion of the juvenile court to  
20 continue jurisdiction for other reasons. The court may terminate  
21 jurisdiction if the county welfare department has offered the  
22 required services, and the child either has refused the services or,  
23 after reasonable efforts by the county welfare department, cannot  
24 be located.

25 (b) The Judicial Council shall develop and implement standards,  
26 and develop and adopt appropriate forms, necessary to implement  
27 this section.

28 (c) This section shall remain in effect only until January 1, 2012,  
29 and as of that date is repealed, unless a later enacted statute, that  
30 is enacted before January 1, 2012, deletes or extends that date.

31 SEC. 28. Section 391 is added to the Welfare and Institutions  
32 Code, to read:

33 391. (a) The court shall not terminate jurisdiction over a  
34 dependent youth who has reached 18 years of age unless a hearing  
35 is conducted pursuant to this section.

36 (b) At any hearing for a dependent youth who has attained 18  
37 years of age at which the court is considering termination of the  
38 jurisdiction of the juvenile court and the accompanying foster care  
39 services as described in Section 11403, the county welfare  
40 department shall do all of the following:

1 (1) Ensure that the dependent is present in court, unless the  
2 dependent does not wish to appear in court, or document efforts  
3 by the county welfare department to locate the child when the child  
4 is not available.

5 (2) Submit a report describing whether it is in the youth's best  
6 interests to remain under the court's dependency jurisdiction, which  
7 includes a recommended transitional independent living case plan  
8 for any youth who is continuing dependency as a nonminor.

9 (3) If the dependent has indicated that he or she does not want  
10 dependency jurisdiction to continue, the report shall address the  
11 advisability of a court-ordered trial discharge from foster care.

12 (c) The court shall continue dependency jurisdiction for a  
13 nonminor dependent, as defined in subdivision (v) of Section  
14 11400, who is eligible pursuant to Section 11403 unless the court  
15 finds that after reasonable and documented efforts the nonminor  
16 cannot be located or does not wish to remain subject to dependency  
17 jurisdiction. In making this finding, the court shall ensure that the  
18 nonminor has been informed of his or her options including the  
19 right to file a petition pursuant to Section 388 to resume  
20 dependency jurisdiction, and had an opportunity to confer with  
21 his or her counsel if counsel has been appointed pursuant to Section  
22 317. The court shall terminate dependency jurisdiction for a  
23 nonminor dependent if it finds that the nonminor dependent is not  
24 eligible pursuant to subdivision (b) of Section 11403.

25 (d) If the court terminates dependency jurisdiction, the nonminor  
26 shall remain within the jurisdiction of the court until the nonminor  
27 attains 21 years of age, although no review proceedings shall be  
28 required. As authorized in paragraph (e) of Section 1356.21 of  
29 Title 45 of the Code of Federal Regulations, the court shall  
30 authorize a trial period of departure from foster care as defined in  
31 subdivision (y) of Section 11400. In order to ensure eligibility for  
32 federal financial participation, the court shall set the end date of  
33 the trial period of departure from foster care to be the day prior to  
34 the day the nonminor attains 21 years of age, unless to do so is not  
35 in the nonminor's best interests. A nonminor may petition the court  
36 pursuant to subdivision (e) of Section 388 to resume dependency  
37 jurisdiction at any time before attaining 21 years of age.

38 (e) Unless the nonminor does not wish to remain under the  
39 dependency or delinquency jurisdiction of the court, or, after  
40 reasonable efforts by the county welfare department the nonminor

1 cannot be located, the court shall not terminate dependency or  
2 delinquency jurisdiction over a nonminor dependent who has  
3 reached 18 years of age until a hearing is conducted pursuant to  
4 this section and the department has submitted a report verifying  
5 that the following information, documents, and services have been  
6 provided to the child:

7 (1) Written information concerning the child's dependency case,  
8 including any known information regarding the child's Indian  
9 heritage or tribal connections, if applicable, his or her family  
10 history and placement history, any photographs of the child or his  
11 or her family in the possession of the county welfare department,  
12 other than forensic photographs, the whereabouts of any siblings  
13 under the jurisdiction of the juvenile court, unless the court  
14 determines that sibling contact would jeopardize the safety or  
15 welfare of the sibling, directions on how to access the documents  
16 the child is entitled to inspect under Section 827, and the date on  
17 which the jurisdiction of the juvenile court would be terminated.

18 (2) The following documents:

19 (A) Social security card.

20 (B) Certified copy of his or her birth certificate.

21 (C) Health and education summary, as described in subdivision  
22 (a) of Section 16010.

23 (D) Driver's license, as described in Section 12500 of the  
24 Vehicle Code, or identification card, as described in Section 13000  
25 of the Vehicle Code.

26 (E) A letter prepared by the county welfare department that  
27 includes the following information:

28 (i) The child's name and date of birth.

29 (ii) The dates during which the child was within the jurisdiction  
30 of the juvenile court.

31 (iii) A statement that the child was a foster youth in compliance  
32 with state and federal financial aid documentation requirements.

33 (F) If applicable, the death certificate of the parent or parents.

34 (G) If applicable, proof of the child's citizenship or legal  
35 residence.

36 (3) Assistance in completing an application for Medi-Cal or  
37 assistance in obtaining other health insurance.

38 (4) Referrals to transitional housing, if available, or assistance  
39 in securing other housing.

1 (5) Assistance in obtaining employment or other financial  
2 support.

3 (6) Assistance in applying for admission to college or to a  
4 vocational training program or other educational institution and  
5 in obtaining financial aid, where appropriate.

6 (7) Assistance in maintaining relationships with individuals  
7 who are important to a child who has been in out-of-home  
8 placement for six months or longer from the date the child entered  
9 foster care, based on the child's best interests.

10 (8) For nonminors between 18 and 21 years of age, assistance  
11 in accessing the Independent Living Aftercare Program in the  
12 nonminor's county of residence.

13 (f) At the hearing closest to and before a dependent child's 18th  
14 birthday and every review hearing thereafter, the department shall  
15 submit a report describing efforts toward completing the items  
16 described in paragraph (2) of subdivision (e).

17 (g) The Judicial Council shall develop and implement standards,  
18 and develop and adopt appropriate forms necessary to implement  
19 this provision.

20 (h) This section shall become operative on January 1, 2012.

21 SEC. 29. Section 727.2 of the Welfare and Institutions Code  
22 is amended to read:

23 727.2. The purpose of this section is to provide a means to  
24 monitor the safety and well-being of every minor in foster care  
25 who has been declared a ward of the juvenile court pursuant to  
26 Section 601 or 602 and to ensure that everything reasonably  
27 possible is done to facilitate the safe and early return of the minor  
28 to his or her home or to establish an alternative permanent plan  
29 for the minor.

30 (a) If the court orders the care, custody, and control of the minor  
31 to be under the supervision of the probation officer for placement  
32 pursuant to subdivision (a) of Section 727, the juvenile court shall  
33 order the probation department to ensure the provision of  
34 reunification services to facilitate the safe return of the minor to  
35 his or her home or the permanent placement of the minor, and to  
36 address the needs of the minor while in foster care, except as  
37 provided in subdivision (b).

38 (b) Reunification services need not be provided to a parent or  
39 legal guardian if the court finds by clear and convincing evidence  
40 that one or more of the following is true:

1 (1) Reunification services were previously terminated for that  
2 parent or guardian, pursuant to Section 366.21 or 366.22, or not  
3 offered, pursuant to subdivision (b) of Section 361.5, in reference  
4 to the same minor.

5 (2) The parent has been convicted of any of the following:

6 (A) Murder of another child of the parent.

7 (B) Voluntary manslaughter of another child of the parent.

8 (C) Aiding or abetting, attempting, conspiring, or soliciting to  
9 commit that murder or manslaughter described in subparagraph  
10 (A) or (B).

11 (D) A felony assault that results in serious bodily injury to the  
12 minor or another child of the parent.

13 (3) The parental rights of the parent with respect to a sibling  
14 have been terminated involuntarily, and it is not in the best interest  
15 of the minor to reunify with his or her parent or legal guardian.

16 If no reunification services are offered to the parent or guardian,  
17 the permanency planning hearing, as described in Section 727.3,  
18 shall occur within 30 days of the date of the hearing at which the  
19 decision is made not to offer services.

20 (c) The status of every minor declared a ward and ordered to  
21 be placed in foster care shall be reviewed by the court no less  
22 frequently than once every six months. The six-month time periods  
23 shall be calculated from the date the minor entered foster care, as  
24 defined in paragraph (4) of subdivision (d) of Section 727.4. If the  
25 court so elects, the court may declare the hearing at which the court  
26 orders the care, custody, and control of the minor to be under the  
27 supervision of the probation officer for foster care placement  
28 pursuant to subdivision (a) of Section 727 at the first status review  
29 hearing. It shall be the duty of the probation officer to prepare a  
30 written social study report including an updated case plan, pursuant  
31 to subdivision (b) of Section 706.5, and submit the report to the  
32 court prior to each status review hearing, pursuant to subdivision  
33 (b) of Section 727.4. The social study report shall include all  
34 reports the probation officer relied upon in making his or her  
35 recommendations.

36 (d) Prior to any status review hearing involving a minor in the  
37 physical custody of a community care facility or foster family  
38 agency, the facility or agency may provide the probation officer  
39 with a report containing its recommendations. Prior to any status  
40 review hearing involving the physical custody of a foster parent,

1 relative caregiver, preadoptive parent, or legal guardian, that person  
2 may present to the court a report containing his or her  
3 recommendations. The court shall consider all reports and  
4 recommendations filed pursuant to subdivision (c) and pursuant  
5 to this subdivision.

6 (e) At any status review hearing prior to the first permanency  
7 planning hearing, the court shall consider the safety of the minor  
8 and make findings and orders which determine the following:

9 (1) The continuing necessity for and appropriateness of the  
10 placement.

11 (2) The extent of the probation department's compliance with  
12 the case plan in making reasonable efforts to safely return the  
13 minor to the minor's home or to complete whatever steps are  
14 necessary to finalize the permanent placement of the minor.

15 (3) Whether there should be any limitation on the right of the  
16 parent or guardian to make educational decisions for the minor.  
17 That limitation shall be specifically addressed in the court order  
18 and may not exceed what is necessary to protect the minor. If the  
19 court specifically limits the right of the parent or guardian to make  
20 educational decisions for the minor, the court shall at the same  
21 time appoint a responsible adult to make educational decisions for  
22 the minor pursuant to Section 726.

23 (4) The extent of progress that has been made by the minor and  
24 parent or guardian toward alleviating or mitigating the causes  
25 necessitating placement in foster care.

26 (5) The likely date by which the minor may be returned to and  
27 safely maintained in the home or placed for adoption, appointed  
28 a legal guardian, permanently placed with a fit and willing relative  
29 or referred to another planned permanent living arrangement.

30 (6) In the case of a minor who has reached 16 years of age, the  
31 court shall, in addition, determine the services needed to assist the  
32 minor to make the transition from foster care to independent living.

33 The court shall make these determinations on a case-by-case  
34 basis and reference in its written findings the probation officer's  
35 report and any other evidence relied upon in reaching its decision.

36 (f) At any status review hearing prior to the first permanency  
37 hearing, the court shall order return of the minor to the physical  
38 custody of his or her parent or legal guardian unless the court finds,  
39 by a preponderance of evidence, that the return of the minor to his  
40 or her parent or legal guardian would create a substantial risk of

1 detriment to the safety, protection, or physical or emotional  
2 well-being of the minor. The probation department shall have the  
3 burden of establishing that detriment. In making its determination,  
4 the court shall review and consider the social study report,  
5 recommendations, and the case plan pursuant to subdivision (b)  
6 of Section 706.5, the report and recommendations of any child  
7 advocate appointed for the minor in the case, and any other reports  
8 submitted to the court pursuant to subdivision (d), and shall  
9 consider the efforts or progress, or both, demonstrated by the minor  
10 and family and the extent to which the minor availed himself or  
11 herself of the services provided.

12 (g) At all status review hearings subsequent to the first  
13 permanency planning hearing, the court shall consider the safety  
14 of the minor and make the findings and orders as described in  
15 paragraphs (1) to (4), inclusive, and (6) of subdivision (e). The  
16 court shall either make a finding that the previously ordered  
17 permanent plan continues to be appropriate or shall order that a  
18 new permanent plan be adopted pursuant to subdivision (b) of  
19 Section 727.3. However, the court shall not order a permanent plan  
20 of “return to the physical custody of the parent or legal guardian  
21 after further reunification services are offered,” as described in  
22 paragraph (2) of subdivision (b) of Section 727.3.

23 (h) The status review hearings required by subdivision (c) may  
24 be heard by an administrative review panel, provided that the  
25 administrative panel meets all of the requirements listed in  
26 subparagraph (B) of paragraph (7) of subdivision (d) of Section  
27 727.4.

28 (i) On and after January 1, 2012, at any status review hearing  
29 at which a recommendation to terminate delinquency jurisdiction  
30 is being considered, or at the status review hearing held closest to  
31 the ward attaining 18 years of age, but no fewer than 60 days before  
32 the ward’s 18th birthday, the court shall consider whether to modify  
33 its jurisdiction pursuant to Section 601 or 602 and assume  
34 jurisdiction over the child as a dependent pursuant to Section 300.  
35 The probation department shall address this issue in its report to  
36 the court and make a recommendation as to whether dependency  
37 jurisdiction is appropriate for the child. If the court finds that the  
38 ward no longer requires delinquency supervision, but is at risk of  
39 abuse or neglect and cannot be returned home safely, the court  
40 shall set a hearing pursuant to Section 241.1 to determine whether

1 a modification of its jurisdiction, as described in subdivision (d)  
2 of Section 241.1, is appropriate.

3 (j) On and after January 1, 2012, if a review hearing pursuant  
4 to this section is the last review hearing to be held before the minor  
5 attains 18 years of age, the court shall ensure that the minor's  
6 transitional independent living case plan includes a plan for the  
7 minor to meet one or more of the criteria in Section 11403, so that  
8 the minor can become a nonminor dependent, and that the minor  
9 has been informed of his or her right to decline to become a  
10 nonminor dependent and to seek termination of the court's  
11 jurisdiction pursuant to Section 785.

12 SEC. 29.5. Section 785 of the Welfare and Institutions Code  
13 is amended to read:

14 785. (a) Where a minor is a ward of the juvenile court, the  
15 wardship did not result in the minor's commitment to the Youth  
16 Authority, and the minor is found not to be a fit and proper subject  
17 to be dealt with under the juvenile court law with respect to a  
18 subsequent allegation of criminal conduct, any parent or other  
19 person having an interest in the minor, or the minor, through a  
20 properly appointed guardian, the prosecuting attorney, or probation  
21 officer, may petition the court in the same action in which the  
22 minor was found to be a ward of the juvenile court for a hearing  
23 for an order to terminate or modify the jurisdiction of the juvenile  
24 court. The court shall order that a hearing be held and shall give  
25 prior notice, or cause prior notice to be given, to those persons and  
26 by the means prescribed by Sections 776 and 779, or where the  
27 means of giving notice is not prescribed by those sections, then  
28 by such means as the court prescribes.

29 (b) The petition shall be verified and shall state why jurisdiction  
30 should be terminated or modified in concise language.

31 (c) In determining whether or not the wardship shall terminate  
32 or be modified, the court shall be guided by the policies set forth  
33 in Section 202.

34 (d) On and after January 1, 2012, at any hearing pursuant to this  
35 section involving a minor who was removed from the physical  
36 custody of his or her parent or guardian and placed in foster care  
37 at the time the court adjudged the child a delinquent ward, or who  
38 was removed from his or her parents or guardian and placed in  
39 foster care as a dependent child immediately prior to the court  
40 adjudging the child a delinquent ward, the court shall consider, as



1 an alternative to terminating jurisdiction, whether to modify its  
2 jurisdiction and declare the minor to be a dependent child, pursuant  
3 to Section 300. If the court finds that the ward no longer requires  
4 delinquency supervision, but is at risk of abuse or neglect and  
5 cannot be returned home safely, the court shall set a hearing  
6 pursuant to Section 241.1 to determine whether a modification of  
7 its jurisdiction as described in subdivision (d) of Section 241.1 is  
8 appropriate.

9 (e) On and after January 1, 2012, the court shall continue  
10 delinquency jurisdiction for a nonminor dependent, as defined in  
11 subdivision (v) of Section 11400, who is eligible to remain in foster  
12 care pursuant to Section 11403, unless the court finds that after  
13 reasonable and documented efforts, the nonminor cannot be located  
14 or does not wish to remain a nonminor dependent. In making this  
15 finding, the court shall ensure that the nonminor has been informed  
16 of his or her options, including the right to file a petition pursuant  
17 to Section 388 to resume delinquency jurisdiction, and has had an  
18 opportunity to confer with his or her counsel. As authorized in  
19 paragraph (e) of Section 1356.21 of Title 45 of the Code of Federal  
20 Regulations, the court shall authorize a trial period of departure  
21 from foster care as defined in subdivision (y) of Section 11400.  
22 In order to ensure eligibility for federal financial participation, the  
23 court shall set the end date of the trial period of departure from  
24 foster care to be the day before the nonminor attains 21 years of  
25 age unless it is not in the nonminor's best interests.

26 (f) In addition to its authority under this chapter, the Judicial  
27 Council shall adopt rules providing criteria for the consideration  
28 of the juvenile court in determining whether or not to terminate or  
29 modify jurisdiction pursuant to this section.

30 *SEC. 29.6. Section 10101.2 is added to the Welfare and*  
31 *Institutions Code, to read:*

32 *10101.2. The state's share of the costs for the support and care*  
33 *of former dependent children who have been made wards of related*  
34 *guardians under Article 4.5 (commencing with Section 11360), or*  
35 *Article 4.7 (commencing with Section 11385), of Chapter 2 of Part*  
36 *3, shall be 79 percent of the nonfederal share of the amounts as*  
37 *specified in Sections 11364 and 11387.*

38 *SEC. 30. Section 10609.4 of the Welfare and Institutions Code*  
39 *is amended to read:*

1 10609.4. (a) On or before July 1, 2000, the State Department  
2 of Social Services, in consultation with county and state  
3 representatives, foster youth, and advocates, shall do both of the  
4 following:

5 (1) Develop statewide standards for the implementation and  
6 administration of the Independent Living Program established  
7 pursuant to the federal Consolidated Omnibus Budget  
8 Reconciliation Act of 1985 (Public Law 99-272).

9 (2) Define the outcomes for the Independent Living Program  
10 and the characteristics of foster youth enrolled in the program for  
11 data collection purposes.

12 (b) Each county department of social services shall include in  
13 its annual Independent Living Program report both of the  
14 following:

15 (1) An accounting of federal and state funds allocated for  
16 implementation of the program. Expenditures shall be related to  
17 the specific purposes of the program. Program purposes may  
18 include, but are not limited to, all of the following:

19 (A) Enabling participants to seek a high school diploma or its  
20 equivalent or to take part in appropriate vocational training, and  
21 providing job readiness training and placement services, or building  
22 work experience and marketable skills, or both.

23 (B) Providing training in daily living skills, budgeting, locating  
24 and maintaining housing, and career planning.

25 (C) Providing for individual and group counseling.

26 (D) Integrating and coordinating services otherwise available  
27 to participants.

28 (E) Providing each participant with a written transitional  
29 independent living plan that will be based on an assessment of his  
30 or her needs, that includes information provided by persons who  
31 have been identified by the participant as important to the  
32 participant in cases in which the participant has been in  
33 out-of-home placement for six months or longer from the date the  
34 participant entered foster care, consistent with the participant's  
35 best interests, and that will be incorporated into his or her case  
36 plan.

37 (F) Providing participants who are within 90 days of attaining  
38 18 years of age, or older as the state may elect under Section  
39 475(8)(B)(iii) of the federal Social Security Act (42 U.S.C. Sec.  
40 675(8)(B)(iii)), including those former foster care youth receiving

1 Independent Living Program Aftercare Services, the opportunity  
2 to complete the exit transition plan as required by paragraph (16)  
3 of subdivision (f) of Section 16501.1.

4 (G) Providing participants with other services and assistance  
5 designed to improve independent living.

6 (H) Convening persons who have been identified by the  
7 participant as important to him or her for the purpose of providing  
8 information to be included in his or her written transitional  
9 independent living plan.

10 (2) A detail of the characteristics of foster youth enrolled in  
11 their independent living programs and the outcomes achieved  
12 based on the information developed by the department pursuant  
13 to subdivision (a).

14 (c) The county department of social services in a county that  
15 provides transitional housing placement services pursuant to  
16 paragraph (2) of subdivision (a) of Section 11403.2 shall include  
17 in its annual Independent Living Program report a description of  
18 currently available transitional housing resources in relation to the  
19 number of emancipating pregnant or parenting foster youth in the  
20 county, and a plan for meeting any unmet transitional housing  
21 needs of the emancipating pregnant or parenting foster youth.

22 (d) In consultation with the department, a county may use  
23 different methods and strategies to achieve the standards and  
24 outcomes of the Independent Living Program developed pursuant  
25 to subdivision (a).

26 (e) In consultation with the County Welfare Directors  
27 Association, the California Youth Connection, and other  
28 stakeholders, the department shall develop and adopt emergency  
29 regulations, no later than July 1, 2012, in accordance with Section  
30 11346.1 of the Government Code that counties shall be required  
31 to meet when administering the Independent Living Program and  
32 that are achievable within existing program resources and any  
33 federal funds available for case management and case plan review  
34 functions for nonminor dependents, as provided for in the federal  
35 Fostering Connections to Success and Increasing Adoptions Act  
36 of 2008 (Public Law 110-351). The initial adoption of emergency  
37 regulations and one readoption of the initial regulations shall be  
38 deemed to be an emergency and necessary for the immediate  
39 preservation of the public peace, health and safety, or general  
40 welfare. Initial emergency regulations and the first readoption of

1 those regulations shall be exempt from review by the Office of  
2 Administrative Law. The initial emergency regulations and the  
3 first readoption of those regulations authorized by this subdivision  
4 shall be submitted to the Office of Administrative Law for filing  
5 with the Secretary of State and each shall remain in effect for no  
6 more than 180 days.

7 (f) The department, in consultation with representatives of the  
8 Legislature, the County Welfare Directors Association, the Chief  
9 Probation Officers of California, the Judicial Council,  
10 representatives of tribes, the California Youth Connection, former  
11 foster youth, child advocacy organizations, labor organizations,  
12 dependency counsel for children, juvenile justice advocacy  
13 organizations, foster caregiver organizations, and researchers, shall  
14 review and develop modifications needed to the Independent Living  
15 Program to also serve the needs of nonminor dependents, as defined  
16 in subdivision (v) of Section 11400, eligible for services pursuant  
17 to Section 11403. These modifications shall include the exit  
18 transition plan required to be completed within the 90-day period  
19 immediately prior to the date the nonminor participant attains the  
20 age that would qualify the participant for federal financial  
21 participation, as described in Section 11403, pursuant to Section  
22 675(5)(H) of Title 42 of the United States Code. Notwithstanding  
23 the Administrative Procedure Act, Chapter 3.5 (commencing with  
24 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
25 Code, through June 30, 2012, the department shall prepare for  
26 implementation of the applicable provisions of this section by  
27 publishing all-county letters or similar instructions from the director  
28 by October 1, 2011, to be effective January 1, 2012.

29 SEC. 31. Section 11008.15 of the Welfare and Institutions  
30 Code is amended to read:

31 11008.15. Notwithstanding Sections 11008.14 and 11267, the  
32 department shall exercise the options of disregarding earned income  
33 of a dependent child or ward of the juvenile court derived from  
34 participation in the Job Training Partnership Act of 1982 (Public  
35 Law 97-300), a dependent child or ward of the juvenile court who  
36 is a full-time student pursuant to the Deficit Reduction Act of 1984  
37 (Public Law 97-369), a dependent child or ward of the juvenile  
38 court 16 years of age or older who is a participant in the  
39 Independent Living Program pursuant to the Consolidated Omnibus  
40 Budget Reconciliation Act of 1985 (Public Law 99-272), and, on

1 and after January 1, 2012, a nonminor dependent, as defined in  
2 subdivision (v) of Section 11400 who is participating in a  
3 transitional independent living case plan pursuant to the federal  
4 Fostering Connections to Success and Increasing Adoptions Act  
5 of 2008 (Public Law 110-351), provided that the child's  
6 Independent Living Program case plan states that the purpose of  
7 the employment is to enable the child to gain knowledge of needed  
8 work skills, work habits, and the responsibilities of maintaining  
9 employment.

10 SEC. 32. Section 11155.5 of the Welfare and Institutions Code  
11 is amended to read:

12 11155.5. (a) In addition to the personal property permitted by  
13 other provisions of this part, a child declared a ward or dependent  
14 child of the juvenile court, who is 16 years of age or older, or, on  
15 and after January 1, 2012 a nonminor dependent, as defined in  
16 subdivision (v) of Section 11400, who is participating in a  
17 transitional independent living case plan pursuant to the federal  
18 Fostering Connections to Success and Increasing Adoptions Act  
19 of 2008 (Public Law 110-351), may retain resources with a  
20 combined value of not more than ten thousand dollars (\$10,000),  
21 consistent with Section 472(a) of the federal Social Security Act  
22 (42 U.S.C. Sec. 672(a)) as contained in the federal Foster Care  
23 Independence Act of 1999 (Public Law 106-169) and the child's  
24 transitional independent living plan. Any cash savings shall be the  
25 child's own money and shall be deposited by the child or on behalf  
26 of the child in any bank or savings and loan institution whose  
27 deposits are insured by the Federal Deposit Insurance Corporation  
28 or the Federal Savings and Loan Insurance Corporation. The cash  
29 savings shall be for the child's use for purposes directly related to  
30 the child's or nonminor dependents' transitional independent living  
31 case plan goals.

32 (b) The withdrawal of the savings by a child shall require the  
33 written approval of the child's probation officer or social worker  
34 and shall be directly related to the goal of emancipation. This  
35 written approval is not required for withdrawals by a nonminor  
36 dependent.

37 SEC. 32.5. Section 11217 is added to the Welfare and  
38 Institutions Code, to read:

39 11217. (a) The Director of Social Services shall execute a  
40 declaration stating that increased federal financial participation in

1 the Emergency Contingency Fund for State Temporary Assistance  
2 for Needy Families (TANF) Programs is no longer available  
3 pursuant to the federal American Recovery and Reinvestment Act  
4 of 2009 (ARRA) (Public Law 111-5) or subsequent federal  
5 legislation, including an amendment to the ARRA, that maintains  
6 or extends increased federal financial participation.

7 (b) The director shall provide a copy of the declaration to the  
8 appropriate policy and fiscal committees of the Legislature.

9 SEC. 33. Section 11253 of the Welfare and Institutions Code  
10 is amended to read:

11 11253. (a) Except as provided in subdivision (b), aid shall not  
12 be granted under this chapter to or on behalf of any child who has  
13 attained 18 years of age unless all of the following apply:

14 (1) The child is less than 19 years of age and is attending high  
15 school or the equivalent level of vocational or technical training  
16 on a full-time basis.

17 (2) The child can reasonably be expected to complete the  
18 educational or training program before his or her 19th birthday.

19 (b) On and after January 1, 2012, aid shall be granted under this  
20 chapter to or on behalf of any nonminor dependent, as defined in  
21 subdivision (v) of Section 11400, if the nonminor dependent is  
22 placed in the approved home of a relative under the supervision  
23 of the county child welfare or probation department or Indian tribe  
24 that has entered into an agreement pursuant to Section 10553.1,  
25 and the nonminor dependent otherwise is eligible pursuant to  
26 Section 11403.

27 SEC. 33.5. Section 11253.3 is added to the Welfare and  
28 Institutions Code, to read:

29 11253.3. (a) On and after the effective dates of the age  
30 extensions provided in subdivision (k) of Section 11403, a  
31 nonminor dependent, as defined in subdivision (v) of Section  
32 11400, who was receiving CalWORKs aid and was placed in the  
33 approved home of a relative under the supervision of the county  
34 child welfare or probation department or Indian tribe that has  
35 entered into an agreement pursuant to Section 10553.1, and who  
36 has become eligible for continued receipt of CalWORKs pursuant  
37 to Section 11403, shall not be subject to this chapter, except as  
38 specified in subdivision (b).

39 (b) The nonminor dependent shall continue to receive the same  
40 grant amount as a CalWORKs grant recipient in an assistance unit

1 of one, pursuant to the amount set forth in Section 11450. Any  
2 changes to the CalWORKs grant amount shall also apply to the  
3 nonminor dependent's grant.

4 SEC. 34. Article 4.5 (commencing with Section 11360) is  
5 added to Chapter 2 of Part 3 of Division 9 of the Welfare and  
6 Institutions Code, to read:

7  
8 Article 4.5. Kinship Guardianship Assistance Payment Program  
9

10 11360. Effective on the date that the director executes a  
11 declaration pursuant to Section 11217, the department shall  
12 establish a state-funded Kinship Guardianship Assistance Payment  
13 Program as specified in this article.

14 11361. The Legislature finds and declares that the continuation  
15 of the state-funded Kinship Guardianship Assistance Payment  
16 Program is intended to enhance family preservation and stability  
17 by recognizing that some dependent children and wards of the  
18 juvenile court who are not otherwise eligible under Subtitle IV-E  
19 (commencing with Section 470) of the federal Social Security Act  
20 (42 U.S.C. Sec. 670 et seq.) are in long-term, stable placements  
21 with relatives funded under the CalWORKs program pursuant to  
22 Section 11450, that these placements are the permanent plan for  
23 the child, that dependencies can be dismissed pursuant to Section  
24 366.3 with legal guardianship granted to the relative, and that there  
25 is no need for continued governmental intervention in the family  
26 life through ongoing, scheduled court and social services  
27 supervision of the placement. Continuation of the state-funded  
28 Kin-GAP Program is necessary to ensure that wards and dependent  
29 children of the juvenile court whose placement in the home of an  
30 approved relative is funded under the CalWORKs program are  
31 equally eligible for the benefits derived from legal permanency  
32 with the related guardian and that the state can maximize  
33 improvements to federal permanency outcome measures by exiting  
34 nonfederally eligible youth to the state's subsidized kinship  
35 guardianship program.

36 11362. For purposes of this article, the following definitions  
37 shall apply:

38 (a) "Kinship Guardianship Assistance Payments (Kin-GAP)"  
39 means the state-funded aid provided under the terms of this article

1 on behalf of children in kinship care who are not eligible for  
2 federally funded Kin-GAP pursuant to Section 11385.

3 (b) “Kinship guardian” means a person who (1) has been  
4 appointed the legal guardian of a dependent child pursuant to  
5 Section 360 or 366.26, or a ward of the juvenile court pursuant to  
6 subdivision (d) of Section 728 and (2) is a relative of the child.

7 (c) “Relative” means an adult who is related to the child by  
8 blood, adoption, or affinity within the fifth degree of kinship,  
9 including stepparents, stepsiblings, and all relatives whose status  
10 is preceded by the words “great,” “great-great,” or “grand” or the  
11 spouse of any of those persons even if the marriage was terminated  
12 by death or dissolution.

13 11363. (a) Aid in the form of state-funded Kin-GAP shall be  
14 provided under this article on behalf of any child under 18 years  
15 of age and to any eligible youth under 19 years of age as provided  
16 in Section 11403, who meets all of the following conditions:

17 (1) Has been adjudged a dependent child of the juvenile court  
18 pursuant to Section 300, or, effective October 1, 2006, a ward of  
19 the juvenile court pursuant to Section 601 or 602.

20 (2) Has been residing for at least six consecutive months in the  
21 approved home of the prospective relative guardian while under  
22 the jurisdiction of the juvenile court or a voluntary placement  
23 agreement.

24 (3) Has had a kinship guardianship established pursuant to  
25 Section 360 or 366.26.

26 (4) Has had his or her dependency jurisdiction terminated after  
27 January 1, 2000, pursuant to Section 366.3, or his or her wardship  
28 terminated pursuant to subdivision (e) of Section 728, concurrently  
29 or subsequently to the establishment of the kinship guardianship.

30 (b) If the conditions specified in subdivision (a) are met and,  
31 subsequent to the termination of dependency jurisdiction, any  
32 parent or person having an interest files with the juvenile court a  
33 petition pursuant to Section 388 to change, modify, or set aside an  
34 order of the court, Kin-GAP payments shall continue unless and  
35 until the juvenile court, after holding a hearing, orders the child  
36 removed from the home of the guardian, terminates the  
37 guardianship, or maintains dependency jurisdiction after the court  
38 concludes the hearing on the petition filed under Section 388.

39 (c) A child or nonminor shall be eligible for Kin-GAP payments  
40 if he or she meets one of the following age criteria:



1 (1) He or she is under 18 years of age.

2 (2) He or she is under 21 years of age and has a physical or  
3 mental disability that warrants the continuation of assistance.

4 (3) Through December 31, 2011, he or she meets the conditions  
5 of Section 11403.

6 (4) He or she meets the conditions as described in subdivision  
7 (d).

8 (d) Commencing January 1, 2012, state-funded Kin-GAP  
9 payments shall continue for youths who have attained 18 years of  
10 age and are under 19 years of age if they attained 16 years of age  
11 before the Kin-GAP aid payments commenced. Effective January  
12 1, 2013, Kin-GAP payments shall continue for youths who have  
13 attained 18 years of age and who are under 20 years of age, if they  
14 reached 16 years of age before the Kin-GAP negotiated payments  
15 commenced. Effective January 1, 2014, Kin-GAP payments shall  
16 continue for youths who have attained 18 years of age and are  
17 under 21 years of age, if they reached 16 years of age before the  
18 Kin-GAP negotiated payments commenced. To be eligible for  
19 continued payments, the youth shall meet one or more of the  
20 conditions specified in subdivision (b) of Section 11403. Payments  
21 made to a nonminor pursuant to the conditions specified in  
22 subdivision (b) of Section 11403 may be paid in whole or part to  
23 the eligible youth directly, as specified in subdivision (d) of Section  
24 11403.

25 (e) Termination of the guardianship with a kinship guardian  
26 shall terminate eligibility for Kin-GAP unless the conditions in  
27 Section 11403 apply; provided, however, that if an alternate  
28 guardian or coguardian is appointed pursuant to Section 366.3 who  
29 is also a kinship guardian, the alternate or coguardian shall be  
30 entitled to receive Kin-GAP on behalf of the child pursuant to this  
31 article. A new period of six months of placement with the alternate  
32 guardian or coguardian shall not be required if that alternate  
33 guardian or coguardian has been assessed pursuant to Sections  
34 361.3 and 361.4 and the court terminates dependency jurisdiction.

35 11364. (a) In order to receive payments under this article, the  
36 county child welfare agency, probation department, or Indian tribe  
37 that has entered into an agreement pursuant to Section 10553.1,  
38 shall negotiate and enter into a written, binding, kinship  
39 guardianship assistance agreement with the relative guardian of

1 an eligible child, and provide the relative guardian with a copy of  
2 the agreement.

3 (b) The agreement shall specify, at a minimum, all of the  
4 following:

5 (1) The amount of and manner in which the kinship guardianship  
6 assistance payment will be provided under the agreement, and the  
7 manner in which the agreement may be adjusted periodically, but  
8 no less frequently than every two years, in consultation with the  
9 relative guardian, based on the circumstances of the relative  
10 guardian and the needs of the child.

11 (2) Additional services and assistance for which the child and  
12 relative guardian will be eligible under the agreement.

13 (3) A procedure by which the relative guardian may apply for  
14 additional services, as needed, including the filing of a petition  
15 under Section 388 to have dependency jurisdiction resumed  
16 pursuant to subdivision (b) of Section 366.3.

17 (4) That the agreement shall remain in effect regardless of the  
18 state of residency of the relative guardian.

19 (c) In accordance with the Kin-GAP agreement, the relative  
20 guardian shall be paid an amount of aid based on the child's needs  
21 otherwise covered in AFDC-FC payments and the circumstances  
22 of the relative guardian, but that shall not exceed the foster care  
23 maintenance payment that would have been paid based on the  
24 age-related state-approved foster family home care rate and any  
25 applicable specialized care increment for a child placed in a  
26 licensed or approved family home pursuant to subdivisions (a) to  
27 (d), inclusive, of Section 11461. In addition, the rate paid for a  
28 child eligible for a Kin-GAP payment shall include an amount  
29 equal to the clothing allowance, as set forth in subdivision (f) of  
30 Section 11461, including any applicable rate adjustments. For a  
31 child eligible for a Kin-GAP payment who is a teen parent, the  
32 rate shall include the two hundred dollar (\$200) monthly payment  
33 made to the relative caregiver in a whole family foster home  
34 pursuant to paragraph (3) of subdivision (d) of Section 11465.

35 (d) The county child welfare agency, probation department, or  
36 Indian tribe that entered into an agreement pursuant to Section  
37 10553.1 shall provide the relative guardian with information, in  
38 writing, on the availability of the Kin-GAP program with an  
39 explanation of the difference between these benefits and Adoption  
40 Assistance Program benefits and AFDC-FC benefits. The agency

1 shall also provide the relative guardian with information on the  
2 availability of mental health services through the Medi-Cal program  
3 or other programs.

4 (e) The Kin-GAP agreement shall also specify the responsibility  
5 of the relative guardian for reporting changes in the needs of the  
6 child or the circumstances of the relative guardian that affect  
7 payment.

8 (f) The county child welfare agency, probation department, or  
9 Indian tribe, as appropriate, shall assess the needs of the child and  
10 the circumstances of the related guardian and is responsible for  
11 determining that the child meets the eligibility criteria for payment.

12 (g) Payments on behalf of a child who is a recipient of Kin-GAP  
13 benefits and who is also a consumer of regional center services  
14 shall be based on the rates established by the State Department of  
15 Social Services pursuant to Section 11464.

16 11365. State-funded Kin-GAP benefits shall be paid to the  
17 kinship guardian on a per child basis. If the conditions in Section  
18 11403 apply, the payment in whole or in part may be paid to the  
19 eligible nonminor directly, as specified in subdivision (d) of Section  
20 11403.

21 11366. A child who is eligible to receive Medi-Cal benefits  
22 with no share of cost shall maintain that eligibility notwithstanding  
23 the receipt of state-funded Kin-GAP by his or her kinship guardian.

24 11367. The supplemental clothing allowance shall be paid  
25 pursuant to paragraph (5) of subdivision (f) of Section 11461.

26 11369. (a) Notwithstanding the Administrative Procedure Act,  
27 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
28 3 of Title 2 of the Government Code, the department may  
29 implement the applicable provisions of the state-funded Kin-GAP  
30 Program through all-county letters or similar instructions from the  
31 director.

32 (b) The director shall adopt regulations as otherwise necessary,  
33 to implement the applicable provisions of the Kin-GAP Program.  
34 Emergency regulations to implement the applicable provisions of  
35 this act may be adopted by the director in accordance with the  
36 Administrative Procedure Act. The initial adoption of the  
37 emergency regulations and one readoption of the initial regulations  
38 shall be deemed to be an emergency and necessary for the  
39 immediate preservation of the public peace, health, safety or  
40 general welfare. Initial emergency regulations and the first

1 readoption of those emergency regulations shall be exempt from  
2 review by the Office of Administrative Law. The emergency  
3 regulations authorized by this section shall be submitted to the  
4 Office of Administrative Law for filing with the Secretary of State  
5 and shall remain in effect for no more than 180 days.

6 11370. The county welfare department or probation department  
7 or Indian tribe, as appropriate, at the time of the Kin-GAP annual  
8 redetermination, shall meet with the relative guardian and the  
9 nonfederally eligible child and enter into a written agreement for  
10 the state-funded Kin-GAP program as described in Section 11364.  
11 This process shall continue for at least 12 calendar months or until  
12 all state-funded Kin-GAP cases as of the effective date described  
13 have been processed.

14 11371. Income to the child, including the state-funded Kin-GAP  
15 payment, shall not be considered income to the kinship guardian  
16 for purposes of determining the kinship guardian's eligibility for  
17 any other aid program, unless required by federal law as a condition  
18 of the receipt of federal financial participation.

19 11372. (a) Notwithstanding any other provision of law, the  
20 state-funded Kinship Guardianship Assistance Payment Program  
21 implemented under this article is exempt from the provisions of  
22 Chapter 2 (commencing with Section 11200) of Part 3.

23 (b) A person who is a kinship guardian under this article, and  
24 who has met the requirements of Section 361.4, shall be exempt  
25 from Chapter 4.6 (commencing with Section 10830) of Part 2  
26 governing the statewide fingerprint imaging system. A guardian  
27 who is also an applicant for or a recipient of benefits under the  
28 CalWORKs program, Chapter 2 (commencing with Section 11200)  
29 of Part 3, or the Food Stamp program, Chapter 10 (commencing  
30 with Section 18900) of Part 6 shall comply with the statewide  
31 fingerprint imaging system requirements applicable to those  
32 programs.

33 (c) Any exemptions exercised pursuant to this section shall be  
34 implemented in accordance with Section 11369.

35 11374. (a) Each county that formally had court ordered  
36 jurisdiction under Section 300, 601, or 602 over a child receiving  
37 benefits under the state-funded Kin-GAP program shall be  
38 responsible for paying the child's aid regardless of where the child  
39 actually resides.

1 (b) Notwithstanding any other provision of law, when a child  
2 receiving benefits under the CalWORKs program becomes eligible  
3 for benefits under the state-funded Kin-GAP program during any  
4 month, the child shall continue to receive benefits under the  
5 CalWORKs program, as appropriate, to the end of that calendar  
6 month, and Kin-GAP payments shall begin the first day of the  
7 following month.

8 11375. The following shall apply to any child or nonminor in  
9 receipt of state-funded Kin-GAP benefits:

10 (a) He or she is eligible to request and receive independent living  
11 services pursuant to Section 10609.3.

12 (b) He or she may retain cash savings, not to exceed ten  
13 thousand dollars (\$10,000), including interest, in addition to any  
14 other property accumulated pursuant to Section 11257 or 11257.5.

15 (c) He or she shall have earned income disregarded pursuant to  
16 Section 11008.15.

17 11376. A foster child who has become the subject of a legal  
18 guardianship, who is receiving assistance under the Kin-GAP  
19 Program under this article or under Article 4.7 (commencing with  
20 Section 11385), including Medi-Cal, and whose foster care court  
21 supervision has been terminated, shall be provided medically  
22 necessary specialty mental health services by the local mental  
23 health plan in the county of residence of his or her legal guardian,  
24 pursuant to all of the following:

25 (a) The host county mental health plan shall be responsible for  
26 submitting the treatment authorization request (TAR) to the mental  
27 health plan in the county of origin.

28 (b) The requesting public or private service provider shall  
29 prepare the TAR.

30 (c) The county of origin shall retain responsibility for  
31 authorization and reauthorization of services utilizing an expedited  
32 TAR process.

33 11378. (a) It is the intent of the Legislature to provide a  
34 seamless and minimally intrusive process to allow an otherwise  
35 federally eligible child who is receiving assistance payments under  
36 this article to access the benefits of federally funded Kin-GAP  
37 pursuant to Article 4.7 (commencing with Section 11385). The  
38 transition to federally funded Kin-GAP shall be accomplished with  
39 minimal disruption to the existing relative guardian and the child,  
40 and with no break in the continuity of assistance payments.

(b) Effective on the date that the director executes the declaration described in Section 11379, at the time of the annual redetermination of the state-funded Kin-GAP benefits, the county shall determine whether the child was receiving federal AFDC-FC payments prior to receiving Kin-GAP, while a dependent child or ward of the juvenile court. Those children determined to have previously received AFDC-FC payments shall be reassigned to the county social worker, who shall inform the relative guardian, and the child if over 12 years of age, of the benefits of transitioning to federal Kin-GAP and the process for making the transition. The process described in this subdivision shall continue for at least 12 calendar months, or until all state-funded Kin-GAP cases as of the effective date described in this subdivision have been processed.

(c) Upon completion of the negotiated Kin-GAP agreement and confirmation that the child satisfies the conditions for federal financial participation, the child shall be eligible for federally funded Kin-GAP pursuant to Article 4.7 (commencing with Section 11385).

(d) The county shall terminate the state-funded Kin-GAP payment made pursuant to the former Article 4.5 (commencing with Section 11360), and with no break in the continuity of aid, shall commence payments under the federal Kin-GAP program pursuant to Article 4.7 (commencing with Section 11385).

11379. This article shall become operative on the date that the Director of Social Services executes the declaration required pursuant to Section 11217, stating that increased federal financial participation from the Emergency Contingency Fund for State Temporary Assistance for Needy Families (TANF) Programs is no longer available pursuant to the federal American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5) or subsequent federal legislation, including an amendment to the ARRA, that maintains or extends increased federal financial participation.

SEC. 35. Section 11363 of the Welfare and Institutions Code is amended to read:

11363. (a) Aid in the form of Kin-GAP shall be provided under this article on behalf of any child under 18 years of age who meets all of the following conditions:

1 (1) Has been adjudged a dependent child of the juvenile court  
2 pursuant to Section 300, or, effective October 1, 2006, a ward of  
3 the juvenile court pursuant to Section 601 or 602.

4 (2) Has been living with a relative for at least six consecutive  
5 months.

6 (3) Has had a kinship guardianship with that relative established  
7 as the result of the implementation of a permanent plan pursuant  
8 to Section 366.26.

9 (4) Has had his or her dependency dismissed after January 1,  
10 2000, pursuant to Section 366.3, or his or her wardship terminated  
11 pursuant to subdivision (e) of Section 728, concurrently or  
12 subsequently to the establishment of the kinship guardianship.

13 (b) Kin-GAP payments shall continue after the child's 18th  
14 birthday if the conditions specified in Section 11403 are met.

15 (c) Termination of the guardianship with a kinship guardian  
16 shall terminate eligibility for Kin-GAP; provided, however, that  
17 if an alternate guardian or coguardian is appointed pursuant to  
18 Section 366.3 who is also a kinship guardian, the alternate or  
19 coguardian shall be entitled to receive Kin-GAP on behalf of the  
20 child pursuant to this article. A new period of six months of  
21 placement with the alternate guardian or coguardian shall not be  
22 required if that alternate guardian or coguardian has been assessed  
23 pursuant to Section 361.3 and the court terminates dependency  
24 jurisdiction.

25 (d) If the conditions specified in subdivisions (a) to (c),  
26 inclusive, are met and, subsequent to the termination of dependency  
27 jurisdiction, a parent or person having an interest files with the  
28 juvenile court a petition pursuant to Section 388 to change, modify,  
29 or set aside an order of the court, Kin-GAP payments shall continue  
30 unless and until the juvenile court orders the child removed from  
31 the home of the guardian, terminates the guardianship, or otherwise  
32 grants the relief requested in the petition, after holding a hearing.

33 SEC. 36. Section 11376 of the Welfare and Institutions Code  
34 is amended to read:

35 11376. A foster child who has become the subject of a legal  
36 guardianship, who is receiving assistance under the Kin-Gap  
37 Program, including Medi-Cal, and whose foster care court  
38 supervision has been terminated, shall be provided medically  
39 necessary specialty mental health services by the local mental

1 health plan in the county of residence of his or her legal guardian,  
2 pursuant to all of the following:

3 (a) The host county mental health plan shall be responsible for  
4 submitting the treatment authorization request (TAR) to the mental  
5 health plan in the county of origin.

6 (b) The requesting public or private service provider shall  
7 prepare the TAR.

8 (c) The county of origin shall retain responsibility for  
9 authorization and reauthorization of services utilizing an expedited  
10 TAR process.

11 (d) This article shall become inoperative on the date that the  
12 Director of Social Services executes the declaration required  
13 pursuant to Section 11217, stating that increased federal financial  
14 participation in the Emergency Contingency Fund for State  
15 Temporary Assistance for Needy Families (TANF) Programs is  
16 no longer available pursuant to the federal American Recovery  
17 and Reinvestment Act of 2009 (ARRA) (Public Law 111-5) or  
18 subsequent federal legislation, including an amendment to the  
19 ARRA, that maintains or extends increased federal financial  
20 participation and as of the January 1 immediately following that  
21 date is repealed.

22 SEC. 37. Article 4.7 (commencing with Section 11385) is  
23 added to Chapter 2 of Part 3 of Division 9 of the Welfare and  
24 Institutions Code, to read:

25  
26 Article 4.7. Kinship Guardianship Assistance Payments for  
27 Children  
28

29 11385. (a) On and after the date that the director executes a  
30 declaration pursuant to Section 11217, the State Department of  
31 Social Services shall exercise its option under Section 671(a)(28)  
32 of Title 42 of the United States Code to enter into kinship  
33 guardianship assistance agreements to provide federally funded  
34 kinship guardianship assistance payments on behalf of children to  
35 grandparents and other relatives who have assumed legal  
36 guardianship of the children for whom they have cared as approved  
37 relative caregivers and for whom they have committed to care on  
38 a permanent basis, as provided in Section 673(d) of Title 42 of the  
39 United States Code.



1 (b) A kinship guardianship assistance payment made under this  
2 article on behalf of a child shall not exceed the rate for children  
3 placed in a licensed or approved home pursuant to Section 11461.

4 (c) It is the intent of the Legislature to ensure that relative  
5 guardians of children in long-term, stable placements who  
6 previously were receiving kinship guardianship assistance  
7 payments on behalf of those children under Article 4.5  
8 (commencing with Section 11360) shall instead receive assistance  
9 under this article to the extent that those children are otherwise  
10 eligible under Subtitle IV-E (commencing with Section 470 of the  
11 federal Social Security Act (42 U.S.C. Sec. 670 et seq.)).

12 (d) It is the intent of the Legislature that no county currently  
13 participating in the Child Welfare Demonstration Capped  
14 Allocation Project be adversely impacted by the department's  
15 exercise of its option under Section 671(a)(28) of Title 42 of the  
16 United States Code to enter into kinship assistance agreements as  
17 provided in Section 673(d) of Title 42 of the United States Code.  
18 Therefore, the department shall negotiate with the United States  
19 Department of Health and Human Services on behalf of those  
20 counties that are currently participating in the demonstration project  
21 to ensure that those counties receive reimbursement for these new  
22 programs outside of the provisions of those counties' waiver under  
23 Subtitle IV-E (commencing with Section 470 of the federal Social  
24 Security Act (42 U.S.C. Sec. 670 et seq.)).

25 11386. Aid shall be provided under this article on behalf of a  
26 child under 18 years of age, and to any eligible youth under 19  
27 years of age, as provided in Section 11403, under all of the  
28 following conditions:

29 (a) The child meets both of the following requirements:

30 (1) He or she has been removed from his or her home pursuant  
31 to a voluntary placement agreement, or as a result of judicial  
32 determination, including being adjudged a dependent child of the  
33 court, pursuant to Section 300, or a ward of the court, pursuant to  
34 Section 601 or 602, to the effect that continuation in the home  
35 would be contrary to the welfare of the child.

36 (2) He or she has been eligible for federal foster care  
37 maintenance payments under Article 5 (commencing with Section  
38 11400) while residing for at least six consecutive months in the  
39 approved home of the prospective relative guardian while under

1 the jurisdiction of the juvenile court or a voluntary placement  
2 agreement.

3 (b) Being returned to the parental home or adopted are not  
4 appropriate permanency options for the child.

5 (c) The child demonstrates a strong attachment to the relative  
6 guardian, and the relative guardian has a strong commitment to  
7 caring permanently for the child and, with respect to the child who  
8 has attained 12 years of age, the child has been consulted regarding  
9 the kinship guardianship arrangement.

10 (d) The child has had a kinship guardianship established  
11 pursuant to Section 360 or Section 366.26.

12 (e) The child has had his or her dependency jurisdiction  
13 terminated pursuant to Section 366.3, or his or her wardship  
14 terminated pursuant to subdivision (e) of Section 728, concurrently  
15 or subsequently to the establishment of the kinship guardianship.

16 (f) If the conditions specified in subdivisions (a) through (e),  
17 inclusive, are met and, subsequent to the termination of dependency  
18 jurisdiction, any parent or person having an interest files with the  
19 juvenile court a petition pursuant to Section 388 to change, modify,  
20 or set aside an order of the court, Kin-GAP payments shall continue  
21 unless and until the juvenile court orders the child removed from  
22 the home of the guardian, terminates the guardianship, or maintains  
23 dependency jurisdiction after the court concludes the hearing on  
24 the petition filed under Section 388.

25 (g) A child or nonminor shall be eligible for Kin-GAP payments  
26 if he or she meets one of the following age criteria:

27 (1) He or she is under 18 years of age.

28 (2) He or she is under 21 years of age and has a physical or  
29 mental disability that warrants the continuation of assistance.

30 (3) Through December 31, 2011, he or she meets the conditions  
31 of Section 11403.

32 (4) He or she meets the conditions as described in subdivision  
33 (h).

34 (h) Effective January 1, 2012, Kin-GAP payments shall continue  
35 for youths who have attained 18 years of age and are under 19  
36 years of age if they attained 16 years of age before the Kin-GAP  
37 negotiated agreement payments commenced. Effective January 1,  
38 2013, Kin-GAP payments shall continue for youths who have  
39 attained 18 years of age and are under 20 years of age, if they  
40 reached 16 years of age before the Kin-GAP negotiated payments

1 commenced. Effective January 1, 2014, Kin-GAP payments shall  
2 continue for youths who have attained 18 years of age and are  
3 under 21 years of age, if they reached 16 years of age before the  
4 Kin-GAP negotiated payments commenced. To be eligible for  
5 continued payments, the youth shall meet one or more of the  
6 conditions specified in subdivision (b) of Section 11403.

7 Payments made to a nonminor pursuant to the conditions  
8 specified in Section 11403 may be paid in whole or part to the  
9 eligible youth directly, as specified in subdivision (d) of Section  
10 11403.

11 (i) Termination of the guardianship with a kinship guardian  
12 shall terminate eligibility for Kin-GAP, unless the conditions of  
13 Section 11403 apply, provided, however, that if an alternate  
14 guardian or coguardian is appointed pursuant to Section 366.3 who  
15 is also a kinship guardian, the alternate or coguardian shall be  
16 entitled to receive Kin-GAP on behalf of the child pursuant to this  
17 article. A new period of six months of placement with the alternate  
18 guardian or coguardian shall not be required if that alternate  
19 guardian or coguardian has been assessed pursuant to Section 361.3  
20 and Section 361.4 and the court terminates dependency jurisdiction,  
21 subject to available federal funding.

22 11387. (a) In order to receive federal financial participation  
23 for payments under this article, the county child welfare agency  
24 or probation department or Indian tribe that entered into an  
25 agreement pursuant to Section 10553.1 shall negotiate and enter  
26 into a written, binding, kinship guardianship assistance agreement  
27 with the relative guardian of an eligible child, and provide the  
28 relative guardian with a copy of the agreement.

29 (b) The agreement shall specify, at a minimum, all of the  
30 following:

31 (1) The amount of and manner in which the kinship guardianship  
32 assistance payment will be provided under the agreement, and the  
33 manner in which the agreement may be adjusted periodically, but  
34 no less frequently than every two years, in consultation with the  
35 relative guardian, based on the circumstances of the relative  
36 guardian and the needs of the child.

37 (2) Additional services and assistance for which the child and  
38 relative guardian will be eligible under the agreement.

39 (3) A procedure by which the relative guardian may apply for  
40 additional services, as needed, including, but not limited to, the

1 filing of a petition under Section 388 to have dependency  
2 jurisdiction resumed pursuant to subdivision (b) of Section 366.3.

3 (c) The agreement shall provide that it shall remain in effect  
4 regardless of the state of residency of the relative guardian.

5 (d) In accordance with the Kin-GAP agreement, the relative  
6 guardian shall be paid an amount of aid based on the child's needs  
7 otherwise covered in AFDC-FC payments and the circumstances  
8 of the relative guardian but that shall not exceed the foster care  
9 maintenance payment that would have been paid based on the  
10 age-related state-approved foster family home care rate and any  
11 applicable specialized care increment for a child placed in a  
12 licensed or approved family home pursuant to subdivisions (a) to  
13 (d), inclusive, of Section 11461. In addition, the rate paid for a  
14 child eligible for a Kin-GAP payment shall include an amount  
15 equal to the clothing allowance, as set forth in subdivision (f) of  
16 Section 11461, including any applicable rate adjustments. For a  
17 child eligible for a Kin-GAP payment who is a teen parent, the  
18 rate shall include the two hundred dollar (\$200) monthly payment  
19 made to the relative caregiver in a whole family foster home  
20 pursuant to paragraph (3) of subdivision (d) of Section 11465.

21 (e) The county child welfare agency or probation department  
22 or Indian tribe that entered into an agreement pursuant to Section  
23 10553.1 shall provide the relative guardian with information, in  
24 writing, on the availability of the federal Kin-GAP program with  
25 an explanation of the difference between these benefits and  
26 Adoption Assistance Program benefits and AFDC-FC benefits.  
27 The agency shall also provide the relative guardian with  
28 information on the availability of mental health services through  
29 the Medi-Cal program or other programs.

30 (f) The Kin-GAP agreement shall also specify the responsibility  
31 of the relative guardian for reporting changes in the needs of the  
32 child or the circumstances of the relative guardian that affect  
33 payment.

34 (g) The county child welfare agency, probation department, or  
35 Indian tribe, as appropriate, shall assess the needs of the child and  
36 the circumstances of the related guardian and is responsible for  
37 determining that the child meets the eligibility criteria for payment.

38 (h) Payments on behalf of a child who is a recipient of Kin-GAP  
39 benefits and who is also a consumer of regional center services

1 shall be based on the rates established by the State Department of  
2 Social Services pursuant to Section 11464.

3 11388. If a federally eligible child described in Section 11386  
4 has one or more siblings who are not so described, the child and  
5 any sibling of the child may be placed in the same kinship  
6 guardianship arrangement, in accordance with Section 671(a)(31)  
7 of Title 42 of the United States Code, if the county child welfare  
8 department or probation department or Indian tribe that entered  
9 into an agreement pursuant to Section 10553.1 and the prospective  
10 relative guardian agree on the appropriateness of the arrangement  
11 for the siblings. Kinship guardianship assistance payments may  
12 be paid on behalf of each sibling, at a per-child rate, placed in  
13 accordance with this section.

14 11389. A child eligible for a Kin-GAP payment under this  
15 article is categorically eligible for Medi-Cal at no share of cost  
16 pursuant to Section 473(b)(3) of the federal Social Security Act  
17 (42 U.S.C. Sec. 673(b)(3)).

18 11390. (a) A person who is a kinship guardian under this  
19 article, and who has met the requirements of Section 361.4, shall  
20 be exempt from Chapter 4.6 (commencing with Section 10830)  
21 of Part 2 governing the statewide fingerprint imaging system. A  
22 guardian who is also an applicant for or a recipient of benefits  
23 under the CalWORKS program, Chapter 2 (commencing with  
24 Section 11200) of Part 3, or the Food Stamp program, Chapter 10  
25 (commencing with Section 18900) of Part 6 shall comply with the  
26 statewide fingerprint imaging system requirements applicable to  
27 those programs.

28 (b) Any exemptions exercised pursuant to this section shall be  
29 implemented in accordance with Section 11393.

30 (c) Income to the child, including the Kin-GAP payment, shall  
31 not be considered income to the kinship guardian for purposes of  
32 determining the kinship guardian's eligibility for any other aid  
33 program, unless required by federal law as a condition of the receipt  
34 of federal financial participation.

35 (d) Each county that formally had court-ordered jurisdiction  
36 under Section 300 or Section 601 or 602 over a child receiving  
37 benefits under the Kin-GAP Program shall be responsible for  
38 paying the child's aid regardless of where the child actually resides.

39 (e) Notwithstanding any other provision of law, when a child  
40 receiving benefits under the AFDC-FC foster care program

1 becomes eligible for benefits under the Kin-GAP Program during  
2 any month, the child shall continue to receive benefits under the  
3 AFDC-FC foster care program, as appropriate, to the end of that  
4 calendar month, and Kin-GAP payments shall begin the first day  
5 of the following month.

6 (f) All of the following shall apply to any child or nonminor in  
7 receipt of Kin-GAP benefits:

8 (1) He or she is eligible to request and receive independent  
9 living services pursuant to Section 10609.3.

10 (2) He or she may retain cash savings, not to exceed ten  
11 thousand dollars (\$10,000), including interest, pursuant to Section  
12 11155.5.

13 (3) He or she shall have earned income disregarded pursuant to  
14 Section 11008.15.

15 11391. For purposes of this article, the following definitions  
16 shall apply:

17 (a) “Kinship Guardianship Assistance Payments (Kin-GAP)”  
18 means the aid provided on behalf of children eligible for federal  
19 financial participation under Section 671(a)(28) of Title 42 of the  
20 United States Code in kinship care under the terms of this article.

21 (b) “Kinship guardian” means a person who meets both of the  
22 following criteria:

23 (1) He or she has been appointed the legal guardian of a  
24 dependent child pursuant to Section 366.26 or Section 360 or a  
25 ward of the juvenile court pursuant to subdivision (d) of Section  
26 728.

27 (2) He or she is a relative of the child.

28 (c) “Relative” means an adult who is related to the child by  
29 blood, adoption, or affinity within the fifth degree of kinship,  
30 including stepparents, stepsiblings, and all relatives whose status  
31 is preceded by the words “great,” “great-great,” or “grand” or the  
32 spouse of any of those persons even if the marriage was terminated  
33 by death or dissolution.

34 (d) “Sibling” means a child related to the identified eligible  
35 child by blood, adoption or affinity through a common legal or  
36 biological parent.

37 11392. On and after the date that the director executes a  
38 declaration pursuant to Section 11217, for purposes of eligibility  
39 under this article, children who are currently receiving Kin-GAP  
40 pursuant to Article 4.5 (commencing with Section 11360) and who

1 were determined eligible under Subtitle IV-E (commencing with  
2 Section 470 of the federal Social Security Act (42 U.S.C. Sec. 670  
3 et seq.)) as dependent children of the juvenile court placed in foster  
4 care with an approved relative and who remain under the court's  
5 jurisdiction pursuant to Section 366.4 shall be deemed to meet the  
6 eligibility criteria as described in Section 673(d) of Title 42 of the  
7 United States Code. On and after the date that the director executes  
8 a declaration pursuant to Section 11217, the county child welfare  
9 department, probation department, or Indian tribe, as appropriate,  
10 at the time of each Subtitle IV-E eligible child's Kin-GAP annual  
11 redetermination, shall meet with the relative guardian and child  
12 and enter into the written negotiated agreement as described in  
13 Section 11387.

14 11393. (a) Notwithstanding the Administrative Procedure Act  
15 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
16 Division 3 of Title 2 of the Government Code) the department may  
17 implement the applicable provisions of the federally funded  
18 Kin-GAP Program through all-county letters or similar instructions  
19 from the director.

20 (b) The department shall develop both the all-county letter  
21 instructions and regulations in consultation with concerned  
22 stakeholders, including, but not limited to, the County Welfare  
23 Directors Association, the Chief Probation Officers of California,  
24 representatives of California Indian tribes, the California Youth  
25 Connection, former foster youth, child advocacy organizations,  
26 labor organizations, foster caregiver organizations, and researchers.

27 (c) The director shall adopt regulations as otherwise necessary,  
28 to implement the applicable provisions of the federally funded  
29 Kin-GAP Program. Emergency regulations to implement the  
30 applicable provisions of this act may be adopted by the director  
31 in accordance with the Administrative Procedure Act. The initial  
32 adoption of the emergency regulations and one readoption of the  
33 initial regulations shall be deemed to be an emergency and  
34 necessary for the immediate preservation of the public peace,  
35 health, safety, or general welfare. Initial emergency regulations  
36 and the first readoption of those emergency regulations shall be  
37 exempt from review by the Office of Administrative Law. The  
38 emergency regulations authorized by this section shall be submitted  
39 to the Office of Administrative Law for filing with the Secretary  
40 of State and shall remain in effect for no more than 180 days.

SEC. 38. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) “Aid to Families with Dependent Children-Foster Care (AFDC-FC)” means the aid provided on behalf of needy children in foster care under the terms of this division.

(b) “Case plan” means a written document that, at a minimum, specifies the type of home in which the child shall be placed, the safety of that home, and the appropriateness of that home to meet the child’s needs. It shall also include the agency’s plan for ensuring that the child receive proper care and protection in a safe environment, and shall set forth the appropriate services to be provided to the child, the child’s family, and the foster parents, in order to meet the child’s needs while in foster care, and to reunify the child with the child’s family. In addition, the plan shall specify the services that will be provided or steps that will be taken to facilitate an alternate permanent plan if reunification is not possible.

(c) “Certified family home” means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(d) “Family home” means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) “Small family home” means any residential facility, in the licensee’s family residence, which provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(f) “Foster care” means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(g) “Foster family agency” means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.



1 (h) “Group home” means a nondetention privately operated  
2 residential home, organized and operated on a nonprofit basis only,  
3 of any capacity, or a nondetention licensed residential care home  
4 operated by the County of San Mateo with a capacity of up to 25  
5 beds, that provides services in a group setting to children in need  
6 of care and supervision, as required by paragraph (1) of subdivision  
7 (a) of Section 1502 of the Health and Safety Code.

8 (i) “Periodic review” means review of a child’s status by the  
9 juvenile court or by an administrative review panel, that shall  
10 include a consideration of the safety of the child, a determination  
11 of the continuing need for placement in foster care, evaluation of  
12 the goals for the placement and the progress toward meeting these  
13 goals, and development of a target date for the child’s return home  
14 or establishment of alternative permanent placement.

15 (j) “Permanency planning hearing” means a hearing conducted  
16 by the juvenile court in which the child’s future status, including  
17 whether the child shall be returned home or another permanent  
18 plan shall be developed, is determined.

19 (k) “Placement and care” refers to the responsibility for the  
20 welfare of a child vested in an agency or organization by virtue of  
21 the agency or organization having (1) been delegated care, custody,  
22 and control of a child by the juvenile court, (2) taken responsibility,  
23 pursuant to a relinquishment or termination of parental rights on  
24 a child, (3) taken the responsibility of supervising a child detained  
25 by the juvenile court pursuant to Section 319 or 636, or (4) signed  
26 a voluntary placement agreement for the child’s placement; or to  
27 the responsibility designated to an individual by virtue of his or  
28 her being appointed the child’s legal guardian.

29 (l) “Preplacement preventive services” means services that are  
30 designed to help children remain with their families by preventing  
31 or eliminating the need for removal.

32 (m) “Relative” means an adult who is related to the child by  
33 blood, adoption, or affinity within the fifth degree of kinship,  
34 including stepparents, stepsiblings, and all relatives whose status  
35 is preceded by the words “great,” “great-great,” or “grand” or the  
36 spouse of any of these persons even if the marriage was terminated  
37 by death or dissolution.

38 (n) “Nonrelative extended family member” means an adult  
39 caregiver who has an established familial or mentoring relationship  
40 with the child, as described in Section 362.7.

(o) “Voluntary placement” means an out-of-home placement of a child by (1) the county welfare department, probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1, after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(p) “Voluntary placement agreement” means a written agreement between either the county welfare department, probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1, licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a child that specifies, at a minimum, the following:

(1) The legal status of the child.

(2) The rights and obligations of the parents or guardians, the child, and the agency in which the child is placed.

(q) “Original placement date” means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

(r) “Transitional housing placement facility” means either of the following:

(1) A community care facility licensed by the State Department of Social Services pursuant to Section 1559.110 of the Health and Safety Code to provide transitional housing opportunities to persons at least 16 years of age, and not more than 18 years of age unless they satisfy the requirements of Section 11403, who are in out-of-home placement under the supervision of the county department of social services or the county probation department, and who are participating in an independent living program.

(2) A facility certified to provide transitional housing services pursuant to subdivision (e) of Section 1559.110 of the Health and Safety Code.

1 (s) “Transitional housing placement program” means a program  
2 that provides supervised housing opportunities to eligible youth  
3 and nonminor dependents pursuant to Article 4 (commencing with  
4 Section 16522) of Chapter 5 of Part 4.

5 (t) “Whole family foster home” means a new or existing family  
6 home, approved relative caregiver or nonrelative extended family  
7 member’s home, the home of a nonrelated legal guardian whose  
8 guardianship was established pursuant to Section 366.26 or 360,  
9 certified family home that provides foster care for a minor or  
10 nonminor dependent parent and his or her child, and is specifically  
11 recruited and trained to assist the minor or nonminor dependent  
12 parent in developing the skills necessary to provide a safe, stable,  
13 and permanent home for his or her child. The child of the minor  
14 or nonminor dependent parent need not be the subject of a petition  
15 filed pursuant to Section 300 to qualify for placement in a whole  
16 family foster home.

17 (u) “Mutual agreement” means an agreement of consent for  
18 placement in a supervised setting between a minor or, on and after  
19 January 1, 2012, a nonminor dependent, and the agency responsible  
20 for the foster care placement, that documents the nonminor’s  
21 continued need for supervised out-of-home placement and the  
22 nonminor’s and social worker’s or probation officer’s agreement  
23 to work together to facilitate implementation of the mutually  
24 developed supervised placement agreement and transitional living  
25 plan.

26 (v) “Nonminor dependent” means, on and after January 1, 2012,  
27 a foster child, as described in Section 675(8)(B) of Title 42 of the  
28 United States Code under the federal Social Security Act who is  
29 a current or former dependent child or ward of the juvenile court  
30 who satisfies all of the following criteria:

31 (1) He or she has attained 18 years of age but is less than 21  
32 years of age.

33 (2) He or she is in foster care under the responsibility of the  
34 county welfare department, county probation department, or Indian  
35 tribe that entered into an agreement pursuant to Section 10553.1.

36 (3) He or she is participating in a transitional independent living  
37 case plan pursuant to Section 475(8) of the federal Social Security  
38 Act (42 U.S.C. Sec. 675(8)), as contained in the Fostering  
39 Connections to Success and Increasing Adoptions Act of 2008  
40 (Public Law 110-351).

1 (w) “Supervised independent living setting” means, on and after  
2 January 1, 2012, a supervised setting, as specified in a nonminor  
3 dependent’s transitional independent living case plan, in which  
4 the youth is living independently, pursuant to Section 472(c)(2)  
5 of the Social Security Act (42 U.S.C. Sec. 672(c)(2)).

6 (x) “THP-Plus Foster Care” means, on and after January 1,  
7 2012, a placement that offers supervised housing opportunities  
8 and supportive services to eligible nonminor dependents at least  
9 18 years of age, on and after January 1, 2013, 19 years of age, and  
10 on and after January 1, 2014, 20 years of age, and not more than  
11 21 years of age, who are in out-of-home placement under the  
12 supervision of the county department of social services or the  
13 county probation department or Indian tribe that entered into an  
14 agreement pursuant to Section 10553.1, and who are described in  
15 paragraph (3) of subdivision (a) of Section 11403.2.

16 (y) “Trial independence” means, on or after January 1, 2012,  
17 consistent with paragraph (e) of Section 1356.21 of Title 45 of the  
18 Code of Federal Regulations, a period not to exceed six months,  
19 unless the juvenile court authorizes a longer period, during which  
20 the court may terminate and subsequently resume the nonminor’s  
21 dependency jurisdiction, and the nonminor’s Title IV-E foster care  
22 benefits may be resumed if the nonminor otherwise is eligible  
23 pursuant to Section 11403. Operation of this subdivision shall be  
24 contingent upon receipt of all necessary federal approvals.

25 SEC. 39. Section 11401 of the Welfare and Institutions Code,  
26 as amended by Section 2 of Chapter 4 of the Eighth Extraordinary  
27 Session of the Statutes of 2010, is amended to read:

28 11401. Aid in the form of AFDC-FC shall be provided under  
29 this chapter on behalf of any child under 18 years of age, and, on  
30 and after January 1, 2012, to any nonminor dependent, except as  
31 provided in Section 11403, who meets the conditions of subdivision  
32 (a), (b), (c), (d), (e), (f), (g), or (h):

33 (a) The child has been relinquished, for purposes of adoption,  
34 to a licensed adoption agency, or the department, or the parental  
35 rights of either or both of his or her parents have been terminated  
36 after an action under the Family Code has been brought by a  
37 licensed adoption agency or the department, provided that the  
38 licensed adoption agency or the department, if responsible for  
39 placement and care, provides to those children all services as  
40 required by the department to children in foster care.

(b) The child has been removed from the physical custody of his or her parent, relative, or guardian as a result of a voluntary placement agreement or a judicial determination that continuance in the home would be contrary to the child's welfare and that, if the child was placed in foster care, reasonable efforts were made, consistent with Chapter 5 (commencing with Section 16500) of Part 4, to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home, and any of the following applies:

(1) The child has been adjudged a dependent child of the court on the grounds that he or she is a person described by Section 300.

(2) The child has been adjudged a ward of the court on the grounds that he or she is a person described by Sections 601 and 602.

(3) The child has been detained under a court order, pursuant to Section 319 or 636, that remains in effect.

(4) The child's dependency jurisdiction has resumed pursuant to Section 387, or subdivision (a) or (e) of Section 388.

(c) The child has been voluntarily placed by his or her parent or guardian pursuant to Section 11401.1.

(d) The child is living in the home of a nonrelated legal guardian.

(e) On and after January 1, 2012, the child is a nonminor dependent who is placed pursuant to a mutual agreement as set forth in subdivision (d) of Section 11403, under the responsibility of the county welfare department, an Indian tribe that entered into an agreement pursuant to Section 10553.1, or the county probation department.

(f) The child has been placed in foster care under the federal Indian Child Welfare Act. Sections 11402, 11404, and 11405 shall not be construed as limiting payments to Indian children, as defined in the federal Indian Child Welfare Act, placed in accordance with that act.

(g) To be eligible for federal financial participation, the conditions described in paragraph (1), (2), (3), or (4) shall be satisfied:

(1) (A) The child meets the conditions of subdivision (b).

(B) The child has been deprived of parental support or care for any of the reasons set forth in Section 11250.

1 (C) The child has been removed from the home of a relative as  
2 defined in Section 233.90(c)(1) of Title 45 of the Code of Federal  
3 Regulations, as amended.

4 (D) The requirements of Sections 671 and 672 of Title 42 of  
5 the United States Code, as amended, have been met.

6 (2) (A) The child meets the requirements of subdivision (h).

7 (B) The requirements of Sections 671 and 672 of Title 42 of  
8 the United States Code, as amended, have been met.

9 (C) This paragraph shall be implemented only if federal financial  
10 participation is available for the children described in this  
11 paragraph.

12 (3) (A) The child has been removed from the custody of his or  
13 her parent, relative, or guardian as a result of a voluntary placement  
14 agreement or a judicial determination that continuance in the home  
15 would be contrary to the child's welfare and that, if the child was  
16 placed in foster care, reasonable efforts were made, consistent with  
17 Chapter 5 (commencing with Section 16500) of Part 4, to prevent  
18 or eliminate the need for removal of the child from his or her home  
19 and to make it possible for the child to return to his or her home,  
20 and any of the following applies:

21 (i) The child has been adjudged a dependent child of the court  
22 on the grounds that he or she is a person described by Section 300.

23 (ii) The child has been adjudged a ward of the court on the  
24 grounds that he or she is a person described by Sections 601 and  
25 602.

26 (iii) The child has been detained under a court order, pursuant  
27 to Section 319 or 636, that remains in effect.

28 (iv) The child's dependency jurisdiction has resumed pursuant  
29 to Section 387.

30 (B) The child has been placed in an eligible foster care  
31 placement, as set forth in Section 11402.

32 (C) The requirements of Sections 671 and 672 of Title 42 of  
33 the United States Code have been satisfied.

34 (D) This paragraph shall be implemented only if federal financial  
35 participation is available for the children described in this  
36 paragraph.

37 (4) With respect to a nonminor dependent, in addition to meeting  
38 the conditions specified in paragraph (1), the requirements of  
39 Section 675(8)(B) of Title 42 of the United States Code have been  
40 satisfied.

1 (h) The child meets all of the following conditions:

2 (1) The child has been adjudged to be a dependent child or ward  
3 of the court on the grounds that he or she is a person described in  
4 Section 300, 601, or 602.

5 (2) The child's parent also has been adjudged to be a dependent  
6 child or nonminor dependent of the court on the grounds that he  
7 or she is a person described by Section 300, 601, or 602 and is  
8 receiving benefits under this chapter.

9 (3) The child is placed in the same licensed or approved foster  
10 care facility in which his or her parent is placed and the child's  
11 parent is receiving reunification services with respect to that child.

12 SEC. 40. Section 11401.05 is added to the Welfare and  
13 Institutions Code, to read:

14 11401.05. The department shall amend the foster care state  
15 plan required under Subtitle IV-E (commencing with Section 470  
16 of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.)), to  
17 extend benefits under this article, commencing January 1, 2012,  
18 to an individual who is in foster care under the responsibility of  
19 the state, or with respect to whom an adoption assistance agreement  
20 or a kinship guardianship assistance agreement is in effect, in  
21 accordance with the federal Fostering Connections to Success and  
22 Increasing Adoptions Act of 2008 (Public Law 110-351).

23 SEC. 41. Section 11401.1 of the Welfare and Institutions Code  
24 is amended to read:

25 11401.1. (a) Otherwise eligible children placed voluntarily  
26 prior to January 1, 1981, may remain eligible for AFDC-FC  
27 payments.

28 (b) Beginning on January 1, 1982, AFDC-FC payments for  
29 children placed voluntarily on or after January 1, 1981, shall be  
30 limited to a period of up to 180 days under conditions specified  
31 by departmental regulations, and may be extended an additional  
32 six months pursuant to Section 16507.3 and departmental  
33 regulations.

34 This section shall become operative on January 1, 1984.

35 SEC. 42. Section 11401.4 of the Welfare and Institutions Code  
36 is amended to read:

37 11401.4. A child living with his or her parent who is a minor  
38 or, on and after January 1, 2012, a nonminor dependent and a  
39 recipient of AFDC-FC benefits shall be deemed a child with respect  
40 to whom AFDC-FC payments are made.

1 SEC. 43. Section 11401.5 of the Welfare and Institutions Code  
2 is repealed.

3 SEC. 43.5. Section 11401.5 is added to the Welfare and  
4 Institutions Code, to read:

5 11401.5. The county shall review the child's or nonminor  
6 dependent's payment amount annually. The review shall include  
7 an examination of any circumstances of a foster child or nonminor  
8 dependent that are subject to change and could affect the child's  
9 or nonminor dependent's potential eligibility or payment amount,  
10 including, but not limited to, authority for placement, eligible  
11 facility, and age.

12 SEC. 44. Section 11402 of the Welfare and Institutions Code,  
13 as amended by Section 7 of Chapter 288 of the Statutes of 2007,  
14 is amended to read:

15 11402. In order to be eligible for AFDC-FC, a child shall be  
16 placed in one of the following:

17 (a) The approved home of a relative, provided the child is  
18 otherwise eligible for federal financial participation in the  
19 AFDC-FC payment.

20 (b) (1) The licensed family home of a nonrelative.

21 (2) The approved home of a nonrelative extended family  
22 member as described in Section 362.7.

23 (c) A licensed group home, as defined in subdivision (h) of  
24 Section 11400, provided that the placement worker has documented  
25 that the placement is necessary to meet the treatment needs of the  
26 child and that the facility offers those treatment services.

27 (d) The home of a nonrelated legal guardian or the home of a  
28 former nonrelated legal guardian when the guardianship of a child  
29 who is otherwise eligible for AFDC-FC has been dismissed due  
30 to the child's attaining 18 years of age.

31 (e) An exclusive-use home.

32 (f) A licensed transitional housing placement facility, as  
33 described in Section 1559.110 of the Health and Safety Code, and  
34 as defined in subdivision (r) of Section 11400, or a transitional  
35 housing placement program, as defined in subdivision (s) of Section  
36 11400.

37 (g) An out-of-state group home, provided that the placement  
38 worker, in addition to complying with all other statutory  
39 requirements for placing a minor in an out-of-state group home,



1 documents that the requirements of Section 7911.1 of the Family  
2 Code have been met.

3 (h) A licensed crisis nursery, as described in Section 1516 of  
4 the Health and Safety Code, and as defined in subdivision (a) of  
5 Section 11400.1.

6 (i) A supervised independent living setting for nonminor  
7 dependents, as defined in Section 11400.

8 (j) An approved THP-Plus Foster Care placement for nonminor  
9 dependents, as defined in subdivision (x) of Section 11400.

10 (k) This section shall remain in effect only until July 1, 2011,  
11 and as of that date is repealed, unless a later enacted statute, that  
12 is enacted before July 1, 2011, deletes or extends that date.

13 SEC. 45. Section 11402 of the Welfare and Institutions Code,  
14 as amended by Section 8 of Chapter 288 of the Statutes of 2007,  
15 is amended to read:

16 11402. In order to be eligible for AFDC-FC, a child shall be  
17 placed in one of the following:

18 (a) The approved home of a relative, provided the child is  
19 otherwise eligible for federal financial participation in the  
20 AFDC-FC payment.

21 (b) (1) The licensed family home of a nonrelative.

22 (2) The approved home of a nonrelative extended family  
23 member as described in Section 362.7.

24 (c) A licensed group home, as defined in subdivision (h) of  
25 Section 11400, provided that the placement worker has documented  
26 that the placement is necessary to meet the treatment needs of the  
27 child and that the facility offers those treatment services.

28 (d) The home of a nonrelated legal guardian or the home of a  
29 former nonrelated legal guardian when the guardianship of a child  
30 who is otherwise eligible for AFDC-FC has been dismissed due  
31 to the child's attaining 18 years of age.

32 (e) An exclusive-use home.

33 (f) A licensed transitional housing placement facility as  
34 described in Section 1559.110 of the Health and Safety Code and  
35 as defined in subdivision (r) of Section 11400, or a transitional  
36 housing placement program, as defined in subdivision (s) of Section  
37 11400.

38 (g) An out-of-state group home, provided that the placement  
39 worker, in addition to complying with all other statutory  
40 requirements for placing a minor in an out-of-state group home,

1 documents that the requirements of Section 7911.1 of the Family  
2 Code have been met.

3 (h) A supervised independent living setting for nonminor  
4 dependents, as defined in Section 11400.

5 (i) An approved THP-Plus Foster Care placement for nonminor  
6 dependents, as defined in subdivision (x) of Section 11400.

7 (j) This section shall become operative on July 1, 2011.

8 SEC. 45.5. Section 11402.2 is added to the Welfare and  
9 Institutions Code, to read:

10 11402.2. Recognizing that transitions to independence involve  
11 self-initiated changes in placements, it is the intent of the  
12 Legislature that regulations developed regarding the approval of  
13 the supervised independent living setting, as defined in subdivision  
14 (w) of Section 11400, shall ensure continuity of placement and  
15 payment while the nonminor dependent is temporarily absent from  
16 an approved placement while awaiting approval of his or her new  
17 supervised independent living setting.

18 SEC. 46. Section 11403 of the Welfare and Institutions Code  
19 is amended to read:

20 11403. (a) A child who is in foster care and receiving aid  
21 pursuant to this chapter and who is attending high school or the  
22 equivalent level of vocational or technical training on a full-time  
23 basis, or who is in the process of pursuing a high school  
24 equivalency certificate, prior to his or her 18th birthday, may  
25 continue to receive aid following his or her 18th birthday so long  
26 as the child continues to reside in foster care placement, remains  
27 otherwise eligible for AFDC-FC payments, and continues to attend  
28 high school or the equivalent level of vocational or technical  
29 training on a full-time basis, or continues to pursue a high school  
30 equivalency certificate, and the child may reasonably be expected  
31 to complete the educational or training program or to receive a  
32 high school equivalency certificate, before his or her 19th birthday.  
33 Aid shall be provided to an individual pursuant to this section  
34 provided both the individual and the agency responsible for the  
35 foster care placement have signed a mutual agreement, if the  
36 individual is capable of making an informed agreement, which  
37 documents the continued need for out-of-home placement.

38 (b) This section shall remain in effect only until January 1, 2012,  
39 and as of that date is repealed, unless a later enacted statute, that  
40 is enacted before January 1, 2012, deletes or extends that date.

1 SEC. 47. Section 11403 is added to the Welfare and Institutions  
2 Code, to read:

3 11403. (a) It is the intent of the Legislature to exercise the  
4 option afforded states under Section 475(8) (42 U.S.C. Sec.  
5 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the  
6 federal Social Security Act, as contained in the Fostering  
7 Connections to Success and Increasing Adoptions Act of 2008  
8 (Public Law 110-351), to receive federal financial participation  
9 for current or former dependent children or wards of the juvenile  
10 court who meet the conditions of subdivision (b), consistent with  
11 their transitional living case plan. Effective January 1, 2012, these  
12 nonminor dependents shall be eligible to receive support up to 19  
13 years of age, effective January 1, 2013, up to 20 years of age, and  
14 effective January 1, 2014, up to 21 years of age, consistent with  
15 their transitional independent living case plan. It is the intent of  
16 the Legislature both at the time of initial determination of the  
17 nonminor dependent's eligibility and throughout the time the  
18 nonminor dependent is eligible for aid pursuant to this section,  
19 that the social worker or probation officer or Indian tribe and the  
20 nonminor dependent shall work together to ensure the nonminor  
21 dependent's ongoing eligibility. All case planning shall be a  
22 collaborative effort between the nonminor dependent and the social  
23 worker, probation officer, or Indian tribe, with the nonminor  
24 dependent assuming increasing levels of responsibility and  
25 independence.

26 (b) A nonminor dependent receiving aid pursuant to this chapter,  
27 who satisfies the age criteria set forth in subdivision (a), shall  
28 continue to receive aid so long as the nonminor has signed a mutual  
29 agreement as set forth in subdivision (d), and is otherwise eligible  
30 for AFDC-FC payments pursuant to Section 11401 or CalWORKs  
31 payments pursuant to Section 11253 or aid pursuant to Kin-GAP  
32 under Article 4.5 (commencing with Section 11360) or Article 4.7  
33 (commencing with Section 11385) or adoption assistance payments  
34 as specified in Chapter 2.1 (commencing with Section 16115) of  
35 Part 4. Effective January 1, 2012, a nonminor former dependent  
36 child of the juvenile court who is receiving AFDC-FC benefits  
37 pursuant to Section 11405 shall be eligible to continue to receive  
38 aid up to 19 years of age, effective January 1, 2013, up to 20 years  
39 of age, and effective January 1, 2014, up to 21 years of age, as  
40 long as the nonminor is otherwise eligible for AFDC-FC benefits

1 under this subdivision. This subdivision shall apply when one or  
2 more of the following conditions exist:

3 (1) The nonminor is completing secondary education or a  
4 program leading to an equivalent credential.

5 (2) The nonminor is enrolled in an institution which provides  
6 postsecondary or vocational education.

7 (3) The nonminor is participating in a program or activity  
8 designed to promote, or remove barriers to employment.

9 (4) The nonminor is employed for at least 80 hours per month.

10 (5) The nonminor is incapable of doing any of the activities  
11 described in subparagraphs (1) to (4), inclusive, due to a medical  
12 condition, and that incapability is supported by regularly updated  
13 information in the case plan of the nonminor.

14 (c) The county child welfare or probation department or Indian  
15 tribe that has entered into an agreement pursuant to Section  
16 10553.1, shall work together with a nonminor dependent who is  
17 in foster care on his or her 18th birthday and thereafter or a  
18 nonminor former dependent receiving aid pursuant to Section  
19 11405, to meet one or more of the conditions described in  
20 paragraphs (1) to (5), inclusive, of subdivision (b) and shall certify  
21 the nonminor's applicable condition or conditions in the  
22 nonminor's six-month transitional independent living case plan  
23 update, and provide the certification to the eligibility worker and  
24 to the court at each six-month case plan review hearing for the  
25 nonminor dependent. Relative guardians who receive Kin-GAP  
26 payments and adoptive parents who receive adoption assistance  
27 payments shall be responsible for reporting to the county welfare  
28 agency that the nonminor does not satisfy at least one of the  
29 conditions described in subdivision (b). The social worker,  
30 probation officer, or tribe shall verify and obtain assurances that  
31 the nonminor dependent continues to meet at least one of the  
32 conditions in paragraphs (1) to (5), inclusive, of subdivision (b)  
33 at each six-month transitional independent living case plan update.  
34 The six-month case plan update shall certify the nonminor's  
35 eligibility pursuant to subdivision (b) for the next six-month period.  
36 During the six-month certification period, the payee and nonminor  
37 shall report any change in placement or other relevant changes in  
38 circumstances that may affect payment. The nonminor dependent  
39 or a nonminor former dependent receiving aid pursuant to Section  
40 11405, shall be afforded all due process requirements in accordance

1 with state and federal law prior to an involuntary termination of  
2 aid. The nonminor dependent or nonminor former dependent  
3 receiving aid pursuant to Section 11405 shall be informed of all  
4 due process requirements, in accordance with state and federal  
5 law, prior to an involuntary termination of aid, and shall  
6 simultaneously be provided with a written explanation of how to  
7 exercise his or her due process rights and obtain referrals to legal  
8 assistance. Any notices of action regarding eligibility shall be sent  
9 to the nonminor dependent or former dependent, his or her counsel,  
10 and the placing worker, in addition to any other payee.

11 (d) A nonminor dependent may receive all or a portion of the  
12 payment directly provided that the nonminor is living  
13 independently in a supervised setting, and that both the youth and  
14 the agency responsible for the foster care placement have signed  
15 a mutual agreement, as defined in subdivision (u) of Section 11400,  
16 if the youth is capable of making an informed agreement, ~~which~~  
17 *that* documents the continued need for supervised out-of-home  
18 placement, and the nonminor's and social worker's or probation  
19 officer's agreement to work together to facilitate implementation  
20 of the mutually developed supervised placement agreement and  
21 transitional living plan.

22 (e) Eligibility for aid under this section shall not terminate until  
23 the nonminor attains 21 years of age but aid may be suspended  
24 and resumed at request of the nonminor pursuant to subdivision  
25 (e) of Section 388 or after a court terminates dependency  
26 jurisdiction pursuant to Section 391, or delinquency jurisdiction  
27 pursuant to Section 785. Consistent with paragraph (e) of Section  
28 1356.21 of Title 45 of the Code of Federal Regulations, for the  
29 nonminor who returns to supervised placement within the  
30 six-month trial period, or if the court authorized a trial period of  
31 departure from foster care that exceeded six months in duration  
32 and ends prior to the day before the nonminor attains 21 years of  
33 age, the county welfare department is not required to establish a  
34 new Title IV-E eligibility determination for the nonminor for whom  
35 dependency jurisdiction is resumed by the court. The county  
36 welfare department, tribe, or county probation department shall  
37 provide a nonminor dependent who wishes to continue receiving  
38 aid with the assistance necessary to meet and maintain eligibility.

39 (f) (1) The county having jurisdiction of the nonminor  
40 dependent shall remain the county of payment under this section

1 regardless of the youth's physical residence. Nonminor dependents  
2 receiving aid pursuant to Section 11405 shall be paid by their  
3 county of residence. Counties may develop courtesy supervision  
4 agreements to provide case management and independent living  
5 services by the county of residence pursuant to the youth's  
6 transitional independent living case plan. Placements made out of  
7 state are subject to the requirements of the Interstate Compact on  
8 Placement of Children, pursuant to Part 5 (commencing with  
9 Section 7900) of Division 12 of the Family Code.

10 (2) The county welfare department, tribe, or county probation  
11 department shall notify all foster youth who attain 16 years of age  
12 and are under the jurisdiction of that county or tribe, including  
13 those receiving Kin-GAP, and AAP, of the existence of the aid  
14 prescribed by this section.

15 (3) Aid under this section shall be paid on the first of the month  
16 for that month. Notwithstanding any other provision of law, when  
17 a child attains 18 years of age those payments shall continue to  
18 the end of that calendar month and the AFDC-FC, Kin-GAP, or  
19 AAP payments under this section shall begin the first day of the  
20 following month.

21 (4) The department shall seek any waiver to amend its Title  
22 IV-E State Plan with the Secretary of the United States Department  
23 of Health and Human Services necessary to implement this section.

24 (g) (1) Subject to paragraph (3), a county shall contribute to  
25 the cost of extending aid pursuant to this section to eligible  
26 nonminor dependents who have reached 18 years of age and who  
27 are under the jurisdiction of the county, including AFDC-FC  
28 payments pursuant to Section 11401, CalWORKs payments  
29 pursuant to Section 11253, aid pursuant to Kin-GAP under Article  
30 4.5 (commencing with Section 11360) or Article 4.7 (commencing  
31 with Section 11385), adoption assistance payments as specified  
32 in Chapter 2.1 (commencing with Section 16115) of Part 4, and  
33 aid pursuant to Section 11405 for nonminor dependents who are  
34 residing in the county as provided in paragraph (1) of subdivision  
35 (f), at the statutory sharing ratios for each of these programs in  
36 effect on January 1, 2012.

37 (2) Subject to paragraph (3), a county shall contribute to the  
38 cost of providing permanent placement services pursuant to  
39 subdivision (c) of Section 16508 and administering the Aid to  
40 Families with Dependent Children Foster Care program pursuant

1 to Section 15204.9 at the statutory sharing ratio for these services  
2 in effect on January 1, 2012. For purposes of budgeting, the  
3 department shall use a standard for the permanent placement  
4 services that is equal to the midpoint between the budgeting  
5 standards for family maintenance services and family reunification  
6 services.

7 (3) Notwithstanding any other provision of law, a county's total  
8 contribution pursuant to paragraphs (1) and (2) shall not exceed  
9 the savings in Kin-GAP assistance grant expenditures realized by  
10 the county from the receipt of federal funds due to the  
11 implementation of Article 4.7 (commencing with Section 11385).  
12 The department shall work with the County Welfare Directors  
13 Association to determine a methodology for calculating each  
14 county's costs and savings pursuant to this section.

15 (h) It is the intent of the Legislature that no county currently  
16 participating in the Child Welfare Demonstration Capped  
17 Allocation Project be adversely impacted by the department's  
18 exercise of its option to extend foster care benefits pursuant to  
19 Section 673(a)(4) and Section 675(8) of Title 42 of the United  
20 States Code in the federal Social Security Act, as contained in the  
21 Fostering Connections to Success and Increasing Adoptions Act  
22 of 2008 (Public Law 110-351). Therefore, the department shall  
23 negotiate with the United States Department of Health and Human  
24 Services on behalf of those counties that are currently participating  
25 in the demonstration project to ensure that those counties receive  
26 reimbursement for these new programs outside of the provisions  
27 of those counties' waiver under Subtitle IV-E (commencing with  
28 Section 470) of the federal Social Security Act (42 U.S.C. Sec.  
29 670 et seq.).

30 (i) The department, on or before July 1, 2012, shall develop  
31 regulations to implement this section in consultation with  
32 concerned stakeholders, including, but not limited to,  
33 representatives of the Legislature, the County Welfare Directors  
34 Association, the Chief Probation Officers of California, the Judicial  
35 Council, representatives of Indian tribes, the California Youth  
36 Connection, former foster youth, child advocacy organizations,  
37 labor organizations, juvenile justice advocacy organizations, foster  
38 caregiver organizations, and researchers. In the development of  
39 these regulations, the department shall consider its Manual of  
40 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,

1 and 917, as guidelines for developing regulations that are  
2 appropriate for young adults who can exercise incremental  
3 responsibility concurrently with their growth and development.  
4 The department, in its consultation with stakeholders, shall take  
5 into consideration the impact to the Automated Child Welfare  
6 Services Case Management Services (CWS-CMS) and required  
7 modifications needed to accommodate eligibility determination  
8 under this section, benefit issuance, case management across  
9 counties, and recognition of the legal status of nonminor  
10 dependents as adults, as well as changes to data tracking and  
11 reporting requirements as required by the Child Welfare System  
12 Improvement and Accountability Act as specified in Section  
13 10601.2, and federal outcome measures as required by the John  
14 H. Chafee Foster Care Independence Program (42 U.S.C. Sec.  
15 677(f)). In addition, the department, in its consultation with  
16 stakeholders, shall define the supervised independent living setting  
17 which shall include, but not be limited to, apartment living, room  
18 and board arrangements, college or university dormitories, and  
19 shared roommate settings, and define how those settings meet  
20 health and safety standards suitable for nonminors. The department,  
21 in its consultation with stakeholders, shall define the six-month  
22 certification of the conditions of eligibility pursuant to subdivision  
23 (b) to be consistent with the flexibility provided by federal policy  
24 guidance, to ensure that there are ample supports for a nonminor  
25 to achieve the goals of his or her transition independent living case  
26 plan. The department, in its consultation with stakeholders, shall  
27 ensure that notices of action and other forms created to inform the  
28 nonminor of due process rights and how to access them shall be  
29 developed, using language consistent with the special needs of the  
30 nonminor dependent population.

31 (j) Notwithstanding the Administrative Procedure Act, Chapter  
32 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
33 Title 2 of the Government Code, the department shall prepare for  
34 implementation of the applicable provisions of this section by  
35 publishing, after consultation with the stakeholders listed in  
36 subdivision (i), all-county letters or similar instructions from the  
37 director by October 1, 2011, to be effective January 1, 2012.  
38 Emergency regulations to implement the applicable provisions of  
39 this act may be adopted by the director in accordance with the  
40 Administrative Procedure Act. The initial adoption of the



1 emergency regulations and one readoption of the emergency  
2 regulations shall be deemed to be an emergency and necessary for  
3 the immediate preservation of the public peace, health, safety, or  
4 general welfare. Initial emergency regulations and the first  
5 readoption of those emergency regulations shall be exempt from  
6 review by the Office of Administrative Law. The emergency  
7 regulations authorized by this section shall be submitted to the  
8 Office of Administrative Law for filing with the Secretary of State  
9 and shall remain in effect for no more than 180 days.

10 *(k) Notwithstanding any other provision of law, the extension*  
11 *of benefits to nonminor dependents between 20 and 21 years of*  
12 *age, as provided for in this section, shall be contingent upon an*  
13 *appropriation by the Legislature.*

14 ~~(k)~~

15 *(l)* This section shall become operative on January 1, 2012.

16 SEC. 48. Section 11403.2 of the Welfare and Institutions Code  
17 is amended to read:

18 11403.2. (a) The following persons shall be eligible for  
19 transitional housing placement program services provided pursuant  
20 to Article 4 (commencing with Section 16522) of Chapter 5 of  
21 Part 4:

22 (1) Any minor at least 16 years of age and not more than 18  
23 years of age, and, on or after January 1, 2012, any nonminor  
24 dependent who is less than 21 years of age, who is eligible for  
25 AFDC-FC benefits as provided in *subdivision (b) of* Section 11403,  
26 and who also meets the requirements in Section 16522.2.

27 (2) Any person less than 24 years of age who has emancipated  
28 from a county that has elected to participate in a transitional  
29 housing placement program for youths who are at least 18 years  
30 of age and under 24 years of age, as described in subdivision (r)  
31 of Section 11400, provided he or she has not received services  
32 under this paragraph for more than a total of 24 months, whether  
33 or not consecutive. If the person participating in a transitional  
34 housing placement program is not receiving aid under Section  
35 11403.1, he or she, as a condition of participation, shall enter into,  
36 and execute the provisions of, a transitional independent living  
37 plan that shall be mutually agreed upon, and annually reviewed,  
38 by the emancipated foster youth and the county welfare or  
39 probation department or independent living program coordinator.  
40 The youth participating under this paragraph shall inform the

1 county of any changes to conditions specified in the agreed-upon  
2 plan that affect eligibility, including changes in address, living  
3 circumstances, and the educational or training program.

4 (3) It is the intent of the Legislature to create a new placement  
5 option, known as THP-Plus-Foster Care. On and after January 1,  
6 2012, ~~THP-Plus-Foster Care~~ *THP-Plus-Foster Care, as described*  
7 *in subdivision (x) of Section 11400, is an eligible facility for*  
8 *purposes of AFDC-FC payments for placement of nonminor*  
9 *dependents, and shall offer the same housing models and*  
10 *supportive services as are available through the standard THP-Plus*  
11 *program available to emancipated foster youths pursuant to*  
12 *paragraph (2). In creating the new THP-Plus-Foster Care*  
13 *placement option, it is the intent of the Legislature to preserve the*  
14 *THP-Plus program, as it is described in subdivision (e) of Section*  
15 *1559.110 of the Health and Safety Code, for former emancipated*  
16 *foster youth who have attained 21 years of age, but are under 24*  
17 *years of age, and for former emancipated foster youth who have*  
18 *attained 18 years of age but are under 21 years of age, whose*  
19 *dependency or delinquency jurisdiction has been terminated by*  
20 *the court, and for whom reentry into foster care under subdivision*  
21 *(e) of Section 388 is not an appropriate or viable option.*

22 (4) On and after January 1, 2012, any nonminor dependent at  
23 least 18 years of age, and on January 1, 2013, 19 years of age, and  
24 on January 1, 2014, 20 years of age, and not more than 21 years  
25 of age, as described in subdivision (v) of Section 11400, pursuant  
26 to subdivision (x) of Section 11400, *and who is eligible pursuant*  
27 *to subdivision (b) of Section 11403.*

28 (b) Payment on behalf of an eligible person receiving transitional  
29 housing services *pursuant to paragraph (1) of subdivision (a)* shall  
30 be made to the transitional housing placement program pursuant  
31 to the conditions and limitations set forth in Section 11403.3.  
32 *Notwithstanding Section 11403.3, the department, in consultation*  
33 *with concerned stakeholders, including, but not limited to,*  
34 *representatives of the Legislature, the County Welfare Directors*  
35 *Association, the Chief Probation Officers of California, the Judicial*  
36 *Council, representatives of Indian tribes, the California Youth*  
37 *Connection, former foster youth, child advocacy organizations,*  
38 *labor organizations, juvenile justice advocacy organizations, foster*  
39 *caregiver organizations, researchers, and transitional housing*  
40 *program providers, shall convene a workgroup to establish a new*

1 *rate structure for the Title IV-E funded THP-Plus-Foster Care*  
 2 *placement option for nonminor dependents. The workgroup shall*  
 3 *also consider application of this new rate structure to the*  
 4 *transitional housing placement program, as described in paragraph*  
 5 *(2) of subdivision (a) of Section 11403.3. In developing the new*  
 6 *rate structure pursuant to this subdivision, the department shall*  
 7 *consider the average rates in effect and being paid by counties to*  
 8 *current transitional housing placement programs.*

9 (c) On and after January 1, 2012, with respect to nonminor  
 10 dependents under 21 years of age, the approval standards for these  
 11 legal adults placed in the THP-Plus-Foster Care shall be developed  
 12 in accordance with Section 1502.7 of the Health and Safety Code.  
 13 When developing regulations for the THP-Plus programs, the  
 14 department shall consider the development of an application fee  
 15 process for the programs, similar to the fee schedule as described  
 16 in Section 1523.1 of the Health and Safety Code. An approved  
 17 THP-Plus program shall certify facilities or sites to provide  
 18 transitional housing services to nonminor dependents pursuant to  
 19 subdivision (e) of Section 1559.110 of the Health and Safety Code.

20 (d) (1) *For budgeting purposes, and to achieve the intent of the*  
 21 *Legislature as described in paragraph (3) of subdivision (a), the*  
 22 *department, in consultation with stakeholders and pursuant to*  
 23 *subdivision (c) of Section 11403.3, shall allocate 70 percent of the*  
 24 *amount payable to placements of nonminor dependents under the*  
 25 *THP-Plus-Foster Care program. The remaining 30 percent of the*  
 26 *amount payable shall be available for THP-Plus placement for*  
 27 *both those former emancipated foster youth who have attained 21*  
 28 *years of age, but are under 24 years of age, and for former*  
 29 *emancipated foster youth who have attained 18 years of age but*  
 30 *who are under 21 years of age, whose dependency or delinquency*  
 31 *jurisdiction has been terminated by the court, and for whom reentry*  
 32 *into foster care under subdivision (e) of Section 388 is not an*  
 33 *appropriate or viable option.*

34 (2) *Each county shall submit to the department a plan that sets*  
 35 *forth how the county will provide for the THP-Plus-Foster Care*  
 36 *population, as well as assurances that up to 30 percent of the*  
 37 *placements will be set aside for the THP-Plus population. The*  
 38 *county plan shall also include a contingency for how THP-Plus*  
 39 *placements will be reallocated in the event that there is not*  
 40 *sufficient demand in either the THP-Plus-Foster Care Program*

1 *or the THP-Plus programs to fill the beds allocated for these*  
2 *populations.*

3 SEC. 49. Section 11405 of the Welfare and Institutions Code  
4 is amended to read:

5 11405. (a) AFDC-FC benefits shall be paid to an otherwise  
6 eligible child living with a nonrelated legal guardian, provided  
7 that the legal guardian cooperates with the county welfare  
8 department in all of the following:

9 (1) Developing a written assessment of the child's needs.

10 (2) Updating the assessment no less frequently than once every  
11 six months.

12 (3) Carrying out the case plan developed by the county.

13 (b) When AFDC-FC is applied for on behalf of a child living  
14 with a nonrelated legal guardian the county welfare department  
15 shall do all of the following:

16 (1) Develop a written assessment of the child's needs.

17 (2) Update those assessments no less frequently than once every  
18 six months.

19 (3) Develop a case plan that specifies how the problems  
20 identified in the assessment are to be addressed.

21 (4) Make visits to the child as often as appropriate, but in no  
22 event less often than once every six months.

23 (c) Where the child is a parent and has a child living with him  
24 or her in the same eligible facility, the assessment required by  
25 paragraph (1) of subdivision (a) shall include the needs of his or  
26 her child.

27 (d) Nonrelated legal guardians of eligible children who are in  
28 receipt of AFDC-FC payments described in this section shall be  
29 exempt from the requirement to register with the Statewide  
30 Registry of Private Professional Guardians pursuant to Sections  
31 2850 and 2851 of the Probate Code.

32 (e) On and after January 1, 2012, a nonminor youth whose  
33 nonrelated guardianship was ordered in juvenile court pursuant to  
34 Section 360 or 366.26, and whose dependency was dismissed,  
35 shall remain eligible for AFDC-FC benefits until the youth attains  
36 19 years of age, effective January 1, 2013, until the youth attains  
37 20 years of age, and effective January 1, 2014, until the youth  
38 attains 21 years of age, provided that the youth enters into a mutual  
39 agreement with the agency responsible for his or her guardianship,

and the youth is meeting the conditions of eligibility, as described in Section 11403.

SEC. 50. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) (1) Aid shall be paid for each needy family, which shall include all eligible brothers and sisters of each eligible applicant or recipient child and the parents of the children, but shall not include unborn children, or recipients of aid under Chapter 3 (commencing with Section 12000), qualified for aid under this chapter. In determining the amount of aid paid, and notwithstanding the minimum basic standards of adequate care specified in Section 11452, the family's income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1, averaged for the prospective quarter pursuant to Sections 11265.2 and 11265.3, and then calculated pursuant to Section 11451.5, shall be deducted from the sum specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2). In no case shall the amount of aid paid for each month exceed the sum specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2), plus any special needs, as specified in subdivisions (c), (e), and (f):

Number of eligible needy persons in the same home	Maximum aid
1.....	\$ 326
2.....	535
3.....	663
4.....	788
5.....	899
6.....	1,010
7.....	1,109
8.....	1,209
9.....	1,306
10 or more.....	1,403

If, when, and during those times that the United States government increases or decreases its contributions in assistance

1 of needy children in this state above or below the amount paid on  
2 July 1, 1972, the amounts specified in the above table shall be  
3 increased or decreased by an amount equal to that increase or  
4 decrease by the United States government, provided that no  
5 increase or decrease shall be subject to subsequent adjustment  
6 pursuant to Section 11453.

7 (2) The sums specified in paragraph (1) shall not be adjusted  
8 for cost of living for the 1990–91, 1991–92, 1992–93, 1993–94,  
9 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years, and through  
10 October 31, 1998, nor shall that amount be included in the base  
11 for calculating any cost-of-living increases for any fiscal year  
12 thereafter. Elimination of the cost-of-living adjustment pursuant  
13 to this paragraph shall satisfy the requirements of Section 11453.05,  
14 and no further reduction shall be made pursuant to that section.

15 (b) When the family does not include a needy child qualified  
16 for aid under this chapter, aid shall be paid to a pregnant mother  
17 for the month in which the birth is anticipated and for the  
18 three-month period immediately prior to the month in which the  
19 birth is anticipated in the amount that would otherwise be paid to  
20 one person, as specified in subdivision (a), if the mother, and child,  
21 if born, would have qualified for aid under this chapter. Verification  
22 of pregnancy shall be required as a condition of eligibility for aid  
23 under this subdivision. Aid shall also be paid to a pregnant woman  
24 with no other children in the amount which would otherwise be  
25 paid to one person under subdivision (a) at any time after  
26 verification of pregnancy if the pregnant woman is also eligible  
27 for the Cal-Learn Program described in Article 3.5 (commencing  
28 with Section 11331) and if the mother, and child, if born, would  
29 have qualified for aid under this chapter.

30 (c) The amount of forty-seven dollars (\$47) per month shall be  
31 paid to pregnant mothers qualified for aid under subdivision (a)  
32 or (b) to meet special needs resulting from pregnancy if the mother,  
33 and child, if born, would have qualified for aid under this chapter.  
34 County welfare departments shall refer all recipients of aid under  
35 this subdivision to a local provider of the Women, Infants and  
36 Children program. If that payment to pregnant mothers qualified  
37 for aid under subdivision (a) is considered income under federal  
38 law in the first five months of pregnancy, payments under this  
39 subdivision shall not apply to persons eligible under subdivision  
40 (a), except for the month in which birth is anticipated and for the

1 three-month period immediately prior to the month in which  
2 delivery is anticipated, if the mother, and the child, if born, would  
3 have qualified for aid under this chapter.

4 (d) For children receiving AFDC-FC under this chapter, there  
5 shall be paid, exclusive of any amount considered exempt as  
6 income, an amount of aid each month which, when added to the  
7 child's income, is equal to the rate specified in Section 11460,  
8 11461, 11462, 11462.1, or 11463. In addition, the child shall be  
9 eligible for special needs, as specified in departmental regulations.

10 (e) In addition to the amounts payable under subdivision (a)  
11 and Section 11453.1, a family shall be entitled to receive an  
12 allowance for recurring special needs not common to a majority  
13 of recipients. These recurring special needs shall include, but not  
14 be limited to, special diets upon the recommendation of a physician  
15 for circumstances other than pregnancy, and unusual costs of  
16 transportation, laundry, housekeeping services, telephone, and  
17 utilities. The recurring special needs allowance for each family  
18 per month shall not exceed that amount resulting from multiplying  
19 the sum of ten dollars (\$10) by the number of recipients in the  
20 family who are eligible for assistance.

21 (f) After a family has used all available liquid resources, both  
22 exempt and nonexempt, in excess of one hundred dollars (\$100),  
23 with the exception of funds deposited in a restricted account  
24 described in subdivision (a) of Section 11155.2, the family shall  
25 also be entitled to receive an allowance for nonrecurring special  
26 needs.

27 (1) An allowance for nonrecurring special needs shall be granted  
28 for replacement of clothing and household equipment and for  
29 emergency housing needs other than those needs addressed by  
30 paragraph (2). These needs shall be caused by sudden and unusual  
31 circumstances beyond the control of the needy family. The  
32 department shall establish the allowance for each of the  
33 nonrecurring special need items. The sum of all nonrecurring  
34 special needs provided by this subdivision shall not exceed six  
35 hundred dollars (\$600) per event.

36 (2) Homeless assistance is available to a homeless family  
37 seeking shelter when the family is eligible for aid under this  
38 chapter. Homeless assistance for temporary shelter is also available  
39 to homeless families which are apparently eligible for aid under  
40 this chapter. Apparent eligibility exists when evidence presented

1 by the applicant, or which is otherwise available to the county  
2 welfare department, and the information provided on the  
3 application documents indicate that there would be eligibility for  
4 aid under this chapter if the evidence and information were verified.  
5 However, an alien applicant who does not provide verification of  
6 his or her eligible alien status, or a woman with no eligible children  
7 who does not provide medical verification of pregnancy, is not  
8 apparently eligible for purposes of this section.

9 A family is considered homeless, for the purpose of this section,  
10 when the family lacks a fixed and regular nighttime residence; or  
11 the family has a primary nighttime residence that is a supervised  
12 publicly or privately operated shelter designed to provide temporary  
13 living accommodations; or the family is residing in a public or  
14 private place not designed for, or ordinarily used as, a regular  
15 sleeping accommodation for human beings. A family is also  
16 considered homeless for the purpose of this section if the family  
17 has received a notice to pay rent or quit. The family shall  
18 demonstrate that the eviction is the result of a verified financial  
19 hardship as a result of extraordinary circumstances beyond their  
20 control, and not other lease or rental violations, and that the family  
21 is experiencing a financial crisis that could result in homelessness  
22 if preventative assistance is not provided.

23 (A) (i) A nonrecurring special need of sixty-five dollars (\$65)  
24 a day shall be available to families of up to four members for the  
25 costs of temporary shelter, subject to the requirements of this  
26 paragraph. The fifth and additional members of the family shall  
27 each receive fifteen dollars (\$15) per day, up to a daily maximum  
28 of one hundred twenty-five dollars (\$125). County welfare  
29 departments may increase the daily amount available for temporary  
30 shelter as necessary to secure the additional bedspace needed by  
31 the family.

32 (ii) This special need shall be granted or denied immediately  
33 upon the family's application for homeless assistance, and benefits  
34 shall be available for up to three working days. The county welfare  
35 department shall verify the family's homelessness within the first  
36 three working days and if the family meets the criteria of  
37 questionable homelessness established by the department, the  
38 county welfare department shall refer the family to its early fraud  
39 prevention and detection unit, if the county has such a unit, for  
40 assistance in the verification of homelessness within this period.



1 (iii) After homelessness has been verified, the three-day limit  
2 shall be extended for a period of time which, when added to the  
3 initial benefits provided, does not exceed a total of 16 calendar  
4 days. This extension of benefits shall be done in increments of one  
5 week and shall be based upon searching for permanent housing  
6 which shall be documented on a housing search form; good cause;  
7 or other circumstances defined by the department. Documentation  
8 of a housing search shall be required for the initial extension of  
9 benefits beyond the three-day limit and on a weekly basis thereafter  
10 as long as the family is receiving temporary shelter benefits. Good  
11 cause shall include, but is not limited to, situations in which the  
12 county welfare department has determined that the family, to the  
13 extent it is capable, has made a good faith but unsuccessful effort  
14 to secure permanent housing while receiving temporary shelter  
15 benefits.

16 (B) A nonrecurring special need for permanent housing  
17 assistance is available to pay for last month's rent and security  
18 deposits when these payments are reasonable conditions of securing  
19 a residence, or to pay for up to two months of rent arrearages, when  
20 these payments are a reasonable condition of preventing eviction.

21 The last month's rent or monthly arrearage portion of the  
22 payment (i) shall not exceed 80 percent of the family's total  
23 monthly household income without the value of food stamps or  
24 special needs for a family of that size and (ii) shall only be made  
25 to families that have found permanent housing costing no more  
26 than 80 percent of the family's total monthly household income  
27 without the value of food stamps or special needs for a family of  
28 that size.

29 However, if the county welfare department determines that a  
30 family intends to reside with individuals who will be sharing  
31 housing costs, the county welfare department shall, in appropriate  
32 circumstances, set aside the condition specified in clause (ii) of  
33 the preceding paragraph.

34 (C) The nonrecurring special need for permanent housing  
35 assistance is also available to cover the standard costs of deposits  
36 for utilities which are necessary for the health and safety of the  
37 family.

38 (D) A payment for or denial of permanent housing assistance  
39 shall be issued no later than one working day from the time that a  
40 family presents evidence of the availability of permanent housing.

1 If an applicant family provides evidence of the availability of  
2 permanent housing before the county welfare department has  
3 established eligibility for aid under this chapter, the county welfare  
4 department shall complete the eligibility determination so that the  
5 denial of or payment for permanent housing assistance is issued  
6 within one working day from the submission of evidence of the  
7 availability of permanent housing, unless the family has failed to  
8 provide all of the verification necessary to establish eligibility for  
9 aid under this chapter.

10 (E) (i) Except as provided in clauses (ii) and (iii), eligibility  
11 for the temporary shelter assistance and the permanent housing  
12 assistance pursuant to this paragraph shall be limited to one period  
13 of up to 16 consecutive calendar days of temporary assistance and  
14 one payment of permanent assistance. Any family that includes a  
15 parent or nonparent caretaker relative living in the home who has  
16 previously received temporary or permanent homeless assistance  
17 at any time on behalf of an eligible child shall not be eligible for  
18 further homeless assistance. Any person who applies for homeless  
19 assistance benefits shall be informed that the temporary shelter  
20 benefit of up to 16 consecutive days is available only once in a  
21 lifetime, with certain exceptions, and that a break in the consecutive  
22 use of the benefit constitutes permanent exhaustion of the  
23 temporary benefit.

24 (ii) A family that becomes homeless as a direct and primary  
25 result of a state or federally declared natural disaster shall be  
26 eligible for temporary and permanent homeless assistance.

27 (iii) A family shall be eligible for temporary and permanent  
28 homeless assistance when homelessness is a direct result of  
29 domestic violence by a spouse, partner, or roommate; physical or  
30 mental illness that is medically verified that shall not include a  
31 diagnosis of alcoholism, drug addiction, or psychological stress;  
32 or, the uninhabitability of the former residence caused by sudden  
33 and unusual circumstances beyond the control of the family  
34 including natural catastrophe, fire, or condemnation. These  
35 circumstances shall be verified by a third-party governmental or  
36 private health and human services agency, except that domestic  
37 violence may also be verified by a sworn statement by the victim,  
38 as provided under Section 11495.25. Homeless assistance payments  
39 based on these specific circumstances may not be received more  
40 often than once in any 12-month period. In addition, if the domestic

1 violence is verified by a sworn statement by the victim, the  
2 homeless assistance payments shall be limited to two periods of  
3 not more than 16 consecutive calendar days of temporary assistance  
4 and two payments of permanent assistance. A county may require  
5 that a recipient of homeless assistance benefits who qualifies under  
6 this paragraph for a second time in a 24-month period participate  
7 in a homelessness avoidance case plan as a condition of eligibility  
8 for homeless assistance benefits. The county welfare department  
9 shall immediately inform recipients who verify domestic violence  
10 by a sworn statement pursuant to clause (iii) of the availability of  
11 domestic violence counseling and services, and refer those  
12 recipients to services upon request.

13 (iv) If a county requires a recipient who verifies domestic  
14 violence by a sworn statement to participate in a homelessness  
15 avoidance case plan pursuant to clause (iii), the plan shall include  
16 the provision of domestic violence services, if appropriate.

17 (v) If a recipient seeking homeless assistance based on domestic  
18 violence pursuant to clause (iii) has previously received homeless  
19 avoidance services based on domestic violence, the county shall  
20 review whether services were offered to the recipient and consider  
21 what additional services would assist the recipient in leaving the  
22 domestic violence situation.

23 (vi) The county welfare department shall report to the  
24 department through a statewide homeless assistance payment  
25 indicator system, necessary data, as requested by the department,  
26 regarding all recipients of aid under this paragraph.

27 (F) The county welfare departments, and all other entities  
28 participating in the costs of the AFDC program, have the right in  
29 their share to any refunds resulting from payment of the permanent  
30 housing. However, if an emergency requires the family to move  
31 within the 12-month period specified in subparagraph (E), the  
32 family shall be allowed to use any refunds received from its  
33 deposits to meet the costs of moving to another residence.

34 (G) Payments to providers for temporary shelter and permanent  
35 housing and utilities shall be made on behalf of families requesting  
36 these payments.

37 (H) The daily amount for the temporary shelter special need for  
38 homeless assistance may be increased if authorized by the current  
39 year's Budget Act by specifying a different daily allowance and  
40 appropriating the funds therefor.

1 (I) No payment shall be made pursuant to this paragraph unless  
2 the provider of housing is a commercial establishment, shelter, or  
3 person in the business of renting properties who has a history of  
4 renting properties.

5 (g) The department shall establish rules and regulations ensuring  
6 the uniform application statewide of this subdivision.

7 (h) The department shall notify all applicants and recipients of  
8 aid through the standardized application form that these benefits  
9 are available and shall provide an opportunity for recipients to  
10 apply for the funds quickly and efficiently.

11 (i) Except for the purposes of Section 15200, the amounts  
12 payable to recipients pursuant to Section 11453.1 shall not  
13 constitute part of the payment schedule set forth in subdivision  
14 (a).

15 The amounts payable to recipients pursuant to Section 11453.1  
16 shall not constitute income to recipients of aid under this section.

17 (j) For children receiving Kin-GAP pursuant to Article 4.5  
18 (commencing with Section 11360) or Article 4.7 (commencing  
19 with Section 11385) there shall be paid, exclusive of any amount  
20 considered exempt as income, an amount of aid each month, which,  
21 when added to the child's income, is equal to the rate specified in  
22 Sections 11364 and 11387.

23 SEC. 51. Section 11450.16 of the Welfare and Institutions  
24 Code is amended to read:

25 11450.16. (a) For purposes of determining eligibility under  
26 this chapter, and for computing the amount of aid payment under  
27 Section 11450, families shall be grouped into assistance units.

28 (b) Every assistance unit shall include at least one of the  
29 following persons:

30 (1) One of each of the following:

31 (A) An eligible child.

32 (B) The caretaker relative of an otherwise eligible child who is  
33 not receiving aid under Section 11250 because that child is  
34 receiving benefits under Title XVI of the Social Security Act  
35 (Subchapter 16 (commencing with Section 1381) of Chapter 7 of  
36 Title 42 of the United States Code), or Kin-GAP payments under  
37 Section 11364 or 11387, or foster care payments under Section  
38 11461.

39 (2) A pregnant woman who is eligible for payments under  
40 subdivision (c) of Section 11450.

1 (c) Every assistance unit shall, in addition to the requirements  
2 of subdivision (b), include the eligible parents of the eligible child  
3 and the eligible siblings, including half-siblings, of the eligible  
4 child when those persons reside in the same home as the eligible  
5 child. This subdivision shall not apply to any convicted offender  
6 who is permitted to reside at the home of the eligible child as part  
7 of a court-imposed sentence and who is considered an absent parent  
8 under Section 11250.

9 (d) An assistance unit may, at the option of the family  
10 comprising the assistance unit, also include the nonparent caretaker  
11 relative of the eligible child, the spouse of the parent of the eligible  
12 child, otherwise eligible nonsibling children in the care of the  
13 caretaker relative of the eligible child, and the alternatively  
14 sentenced offender parent exempted under subdivision (c).

15 (e) If two or more assistance units reside in the same home, they  
16 shall be combined into one assistance unit when any of the  
17 following circumstances occurs:

18 (1) There is a common caretaker relative for the eligible  
19 children.

20 (2) One caretaker relative marries another caretaker relative.

21 (3) Two caretaker relatives are the parents of an eligible child.

22 (f) For purposes of this section, “caretaker relative” means the  
23 parent or other relative, as defined by regulations adopted by the  
24 department, who exercises responsibility and control of a child.

25 SEC. 52. Section 11454.5 of the Welfare and Institutions Code  
26 is amended to read:

27 11454.5. (a) Any month in which the following conditions  
28 exist shall not be counted as a month of receipt of aid for the  
29 purposes of subdivision (a) of Section 11454:

30 (1) The recipient is exempt from participation under Article 3.2  
31 (commencing with Section 11320) due to disability, or advanced  
32 age in accordance with paragraph (3) of subdivision (b) of Section  
33 11320.3, or due to caretaking responsibilities that impair the  
34 recipient’s ability to be regularly employed, in accordance with  
35 paragraph (4) or (5) of subdivision (b) of Section 11320.3.

36 (2) The recipient is eligible for, participating in, or exempt from,  
37 the Cal-Learn Program provided for pursuant to Article 3.5  
38 (commencing with Section 11331), is participating in another teen  
39 parent program approved by the department, or, on or after January  
40 1, 2012, is a nonminor dependent under the supervision of the

county child welfare or probation department who is placed in an approved relative's home and is eligible for aid under this section because he or she satisfies the conditions described in Section 11403.

(3) The cost of the cash aid provided to the recipient for the month is fully reimbursed by child support, whether collected in that month or any subsequent month.

(4) The family is a former recipient of cash aid under this chapter and currently receives only child care, case management, or supportive services pursuant to Section 11323.2 or Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code.

(5) To the extent provided by federal law, the recipient lived in Indian country, as defined by federal law, or an Alaskan native village in which at least 50 percent of the adults living in the Indian country or in the village are not employed.

(b) In cases where a lump-sum diversion payment is provided in lieu of cash aid under Section 11266.5, the month in which the payment is made or the months calculated pursuant to subdivision (f) of Section 11266.5 shall count against the limits specified in Section 11454.

SEC. 53. Section 11461 of the Welfare and Institutions Code is amended to read:

11461. (a) For children or, on and after January 1, 2012, nonminor dependents placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, or the approved home of a nonrelative extended family member as described in Section 362.7, or, on and after January 1, 2012, a supervised independent living setting, as defined in subdivision (w) of Section 11400, the per child per month rates in the following schedule shall be in effect for the period July 1, 1989, through December 31, 1989:

Age	Basic rate
0-4.....	\$ 294
5-8.....	319
9-11.....	340
12-14.....	378
15-20.....	412

1 (b) (1) Any county that, as of October 1, 1989, has in effect a  
2 basic rate that is at the levels set forth in the schedule in subdivision  
3 (a), shall continue to receive state participation, as specified in  
4 subdivision (c) of Section 15200, at these levels.

5 (2) Any county that, as of October 1, 1989, has in effect a basic  
6 rate that exceeds a level set forth in the schedule in subdivision  
7 (a), shall continue to receive the same level of state participation  
8 as it received on October 1, 1989.

9 (c) The amounts in the schedule of basic rates in subdivision  
10 (a) shall be adjusted as follows:

11 (1) Effective January 1, 1990, the amounts in the schedule of  
12 basic rates in subdivision (a) shall be increased by 12 percent.

13 (2) Effective May 1, 1990, any county that did not increase the  
14 basic rate by 12 percent on January 1, 1990, shall do both of the  
15 following:

16 (A) Increase the basic rate in effect December 31, 1989, for  
17 which state participation is received by 12 percent.

18 (B) Increase the basic rate, as adjusted pursuant to subparagraph  
19 (A), by an additional 5 percent.

20 (3) (A) Except as provided in subparagraph (B), effective July  
21 1, 1990, for the 1990–91 fiscal year, the amounts in the schedule  
22 of basic rates in subdivision (a) shall be increased by an additional  
23 5 percent.

24 (B) The rate increase required by subparagraph (A) shall not be  
25 applied to rates increased May 1, 1990, pursuant to paragraph (2).

26 (4) Effective July 1, 1998, the amounts in the schedule of basic  
27 rates in subdivision (a) shall be increased by 6 percent.  
28 Notwithstanding any other provision of law, the 6-percent increase  
29 provided for in this paragraph shall, retroactive to July 1, 1998,  
30 apply to every county, including any county to which paragraph  
31 (2) of subdivision (b) applies, and shall apply to foster care for  
32 every age group.

33 (5) Notwithstanding any other provision of law, any increase  
34 that takes effect after July 1, 1998, shall apply to every county,  
35 including any county to which paragraph (2) of subdivision (b)  
36 applies, and shall apply to foster care for every age group.

37 (6) The increase in the basic foster family home rate shall apply  
38 only to children placed in a licensed foster family home receiving  
39 the basic rate or in an approved home of a relative or nonrelative  
40 extended family member, as described in Section 362.7, a

1 supervised independent living setting, as defined in subdivision  
2 (w) of Section 11400, or a nonrelated legal guardian receiving the  
3 basic rate. The increased rate shall not be used to compute the  
4 monthly amount that may be paid to licensed foster family agencies  
5 for the placement of children in certified foster homes.

6 (d) (1) (A) Beginning with the 1991–92 fiscal year, the  
7 schedule of basic rates in subdivision (a) shall be adjusted by the  
8 percentage changes in the California Necessities Index, computed  
9 pursuant to the methodology described in Section 11453, subject  
10 to the availability of funds.

11 (B) In addition to the adjustment in subparagraph (A) effective  
12 January 1, 2000, the schedule of basic rates in subdivision (a) shall  
13 be increased by 2.36 percent rounded to the nearest dollar.

14 (C) Effective January 1, 2008, the schedule of basic rates in  
15 subdivision (a), as adjusted pursuant to subparagraph (B), shall be  
16 increased by 5 percent, rounded to the nearest dollar. The increased  
17 rate shall not be used to compute the monthly amount that may be  
18 paid to licensed foster family agencies for the placement of children  
19 in certified foster family homes, and shall not be used to recompute  
20 the foster care maintenance payment that would have been paid  
21 based on the age-related, state-approved foster family home care  
22 rate and any applicable specialized care increment, for any adoption  
23 assistance agreement entered into prior to October 1, 1992, or in  
24 any subsequent reassessment for adoption assistance agreements  
25 executed before January 1, 2008.

26 (2) (A) Any county that, as of the 1991–92 fiscal year, receives  
27 state participation for a basic rate that exceeds the amount set forth  
28 in the schedule of basic rates in subdivision (a) shall receive an  
29 increase each year in state participation for that basic rate of  
30 one-half of the percentage adjustments specified in paragraph (1)  
31 until the difference between the county's adjusted state  
32 participation level for its basic rate and the adjusted schedule of  
33 basic rates is eliminated.

34 (B) Notwithstanding subparagraph (A), all counties for the  
35 1999–2000 fiscal year and the 2007–08 fiscal year shall receive  
36 an increase in state participation for the basic rate of the entire  
37 percentage adjustment described in paragraph (1).

38 (3) If a county has, after receiving the adjustments specified in  
39 paragraph (2), a state participation level for a basic rate that is  
40 below the amount set forth in the adjusted schedule of basic rates



1 for that fiscal year, the state participation level for that rate shall  
2 be further increased to the amount specified in the adjusted  
3 schedule of basic rates.

4 (e) (1) As used in this section, “specialized care increment”  
5 means an approved amount paid with state participation on behalf  
6 of an AFDC-FC child requiring specialized care to a home listed  
7 in subdivision (a) in addition to the basic rate. Notwithstanding  
8 subdivision (a), the specialized care increment shall not be paid  
9 to a nonminor dependent placed in a supervised independent living  
10 setting as defined in subdivision (w) of Section 11403. On the  
11 effective date of this section, the department shall continue and  
12 maintain the current ratesetting system for specialized care.

13 (2) Any county that, as of the effective date of this section, has  
14 in effect specialized care increments that have been approved by  
15 the department, shall continue to receive state participation for  
16 those payments.

17 (3) Any county that, as of the effective date of this section, has  
18 in effect specialized care increments that exceed the amounts that  
19 have been approved by the department, shall continue to receive  
20 the same level of state participation as it received on the effective  
21 date of this section.

22 (4) (A) Except for subparagraph (B), beginning January 1,  
23 1990, specialized care increments shall be adjusted in accordance  
24 with the methodology for the schedule of basic rates described in  
25 subdivisions (c) and (d). No county shall receive state participation  
26 for any increases in a specialized care increment which exceeds  
27 the adjustments made in accordance with this methodology.

28 (B) Notwithstanding subdivision (e) of Section 11460, for the  
29 1993–94 fiscal year, an amount equal to 5 percent of the State  
30 Treasury appropriation for family homes shall be added to the total  
31 augmentation for the AFDC-FC program in order to provide  
32 incentives and assistance to counties in the area of specialized  
33 care. This appropriation shall be used, but not limited to,  
34 encouraging counties to implement or expand specialized care  
35 payment systems, to recruit and train foster parents for the  
36 placement of children with specialized care needs, and to develop  
37 county systems to encourage the placement of children in family  
38 homes. It is the intent of the Legislature that in the use of these  
39 funds, federal financial participation shall be claimed whenever  
40 possible.

(f) (1) As used in this section, “clothing allowance” means the amount paid with state participation in addition to the basic rate for the provision of additional clothing for an AFDC-FC child, including, but not limited to, an initial supply of clothing and school or other uniforms.

(2) Any county that, as of the effective date of this section, has in effect clothing allowances, shall continue to receive the same level as it received on the effective date of this section.

(3) (A) Commencing in the 2007–08 fiscal year, for children whose foster care payment is the responsibility of Colusa, Plumas, and Tehama Counties, the amount of the clothing allowance may be up to two hundred seventy-four dollars (\$274) per child per year.

(B) Each county listed in subparagraph (A) that elects to receive the clothing allowance shall submit a Clothing Allowance Program Notification to the department within 60 days after the effective date of the act that adds this paragraph.

(C) The Clothing Allowance Program Notification shall identify the specific amounts to be paid and the disbursement schedule for these clothing allowance payments.

(4) Beginning January 1, 1990, except as provided in paragraph (5), clothing allowances shall be adjusted annually in accordance with the methodology for the schedule of basic rates described in subdivisions (c) and (d). No county shall be reimbursed for any increases in clothing allowances which exceed the adjustments made in accordance with this methodology.

(5) For the 2000–01 fiscal year and each fiscal year thereafter, without a county share of cost, notwithstanding subdivision (c) of Section 15200, each child shall be entitled to receive a supplemental clothing allowance of one hundred dollars (\$100) per year subject to the availability of funds. The clothing allowance shall be used to supplement, and not supplant, the clothing allowance specified in paragraph (1).

SEC. 54. Section 11464 of the Welfare and Institutions Code is amended to read:

11464. (a) The Legislature finds and declares all of the following:

(1) Children who are consumers of regional center services and also receiving Aid to Families with Dependent Children-Foster Care (AFDC-FC), Kinship Guardianship Assistance Payment

(Kin-GAP) benefits, or Adoption Assistance Program (AAP) benefits have special needs that can require care and supervision beyond that typically provided to children in foster care. Clarifying the roles of the child welfare and developmental disabilities services systems will ensure that these children receive the services and support they need in a timely manner and encourage the successful adoption of these children, where appropriate.

(2) To address the extraordinary care and supervision needs of children who are consumers of regional center services and also receiving AFDC-FC, Kin-GAP, or AAP benefits, it is necessary to provide a rate for care and supervision of these children that is higher than the average rate they would otherwise receive through the foster care system and higher than the rate other children with medical and other significant special needs receive.

(3) Despite the enhanced rate provided in this section, some children who are consumers of regional center services and also receiving AFDC-FC, Kin-GAP, or AAP benefits may have care and supervision needs that are so extraordinary that they cannot be addressed within that rate. In these limited circumstances, a process should be established whereby a supplement may be provided in addition to the enhanced rate.

(4) Children who receive rates pursuant to this section shall be afforded the same due process rights as all children who apply for AFDC-FC, Kin-GAP, and AAP benefits pursuant to Section 10950.

(b) Rates for children who are both regional center consumers and recipients of AFDC-FC or Kin-GAP benefits under this chapter shall be determined as provided in Section 4684 and this section.

(c) (1) The rate to be paid for 24-hour out-of-home care and supervision provided to children who are both consumers of regional center services pursuant to subdivision (d) of Section 4512 and recipients of AFDC-FC and Kin-GAP benefits under this chapter shall be two thousand six dollars (\$2,006) per child per month.

(2) (A) The county, at its sole discretion, may authorize a supplement of up to one thousand dollars (\$1,000) to the rate for children three years of age and older, if it determines the child has the need for extraordinary care and supervision that cannot be met within the rate established pursuant to paragraph (1). The State Department of Social Services and the State Department of Developmental Services, in consultation with stakeholders

1 representing county child welfare agencies, regional centers, and  
2 children who are both consumers of regional center services and  
3 recipients of AFDC-FC, Kin-GAP, or AAP benefits, shall develop  
4 objective criteria to be used by counties in determining eligibility  
5 for and the level of the supplements provided pursuant to this  
6 paragraph. The State Department of Social Services shall issue an  
7 all-county letter to implement these criteria within 120 days of the  
8 effective date of this act. The criteria shall take into account the  
9 extent to which the child has any of the following:

- 10 (i) Severe impairment in physical coordination and mobility.
- 11 (ii) Severe deficits in self-help skills.
- 12 (iii) Severely disruptive or self-injurious behavior.
- 13 (iv) A severe medical condition.

14 (B) The caregiver may request the supplement described in  
15 subparagraph (A) directly or upon referral by a regional center.  
16 Referral by a regional center shall not create the presumption of  
17 eligibility for the supplement.

18 (C) When assessing a request for the supplement, the county  
19 shall seek information from the consumer's regional center to assist  
20 in the assessment. The county shall issue a determination of  
21 eligibility for the supplement within 90 days of receipt of the  
22 request. The county shall report to the State Department of Social  
23 Services the number and level of rate supplements issued pursuant  
24 to this paragraph.

25 (d) (1) The rate to be paid for 24-hour out-of-home care and  
26 supervision provided for children who are receiving services under  
27 the California Early Start Intervention Services Act, are not yet  
28 determined by their regional center to have a developmental  
29 disability, as defined in subdivisions (a) and (l) of Section 4512,  
30 and are receiving AFDC-FC or Kin-GAP benefits under this  
31 chapter, shall be eight hundred ninety-eight dollars (\$898) per  
32 child per month. If a regional center subsequently determines that  
33 the child is an individual with a developmental disability as that  
34 term is defined by subdivisions (a) and (l) of Section 4512, the  
35 rate to be paid from the date of that determination shall be  
36 consistent with subdivision (c).

37 (2) The rates to be paid for 24-hour out-of-home nonmedical  
38 care and supervision for children who are recipients of AFDC-FC  
39 or Kin-GAP and consumers of regional center services from a  
40 community care facility licensed pursuant to Chapter 3

1 (commencing with Section 1500) of Division 2 of the Health and  
2 Safety Code and vendored by a regional center pursuant to Section  
3 56004 of Title 17 of the California Code of Regulations, shall be  
4 the facility rate established by the State Department of  
5 Developmental Services.

6 (e) Rates paid pursuant to this section are subject to all of the  
7 following requirements:

8 (1) The rates paid to the foster care provider under subdivision  
9 (c) and paragraph (1) of subdivision (d) are only for the care and  
10 supervision of the child, as defined in subdivision (b) of Section  
11 11460 and shall not be applicable to facilities described in  
12 paragraph (2) of subdivision (d).

13 (2) Regional centers shall separately purchase or secure the  
14 services that are contained in the child's Individualized Family  
15 Service Plan (IFSP) or Individual Program Plan (IPP), pursuant  
16 to Section 4684.

17 (3) In the event that the schedule of basic foster care rates, as  
18 specified in Section 11461, is increased on or after July 1, 2008,  
19 the rates in subdivisions (c), (d), and (f) shall be similarly adjusted.  
20 No county shall be reimbursed for any increase in this rate that  
21 exceeds the adjustments made in accordance with this  
22 methodology.

23 (f) (1) The AFDC-FC rates paid on behalf of a regional center  
24 consumer who is a recipient of AFDC-FC prior to July 1, 2007,  
25 shall remain in effect unless a change in the placement warrants  
26 redetermination of the rate or if the child is no longer AFDC-FC  
27 eligible. However, AFDC-FC rates paid on behalf of these children  
28 that are lower than the rates specified in paragraph (1) of  
29 subdivision (c) or paragraph (1) of subdivision (d), respectively,  
30 shall be increased as appropriate to the amount set forth in  
31 paragraph (1) of subdivision (c) or paragraph (1) of subdivision  
32 (d), effective July 1, 2007, and shall remain in effect unless a  
33 change in the placement or a change in AFDC-FC eligibility of  
34 the child warrants redetermination of the rate.

35 (2) For a child who is receiving AFDC-FC benefits or for whom  
36 a foster care eligibility determination is pending, and for whom  
37 an eligibility determination for regional center services pursuant  
38 to subdivision (a) of Section 4512 is pending or approved, and for  
39 whom, prior to July 1, 2007, a State Department of Developmental  
40 Services facility rate determination request has been made and is

1 pending, the rate shall be the State Department of Developmental  
2 Services facility rate determined by the regional center through an  
3 individualized assessment, or the rate established in paragraph (1)  
4 of subdivision (c), whichever is greater. The rate shall remain in  
5 effect until the child is no longer eligible to receive AFDC-FC, or,  
6 if still AFDC-FC eligible, is found ineligible for regional center  
7 services as an individual described in subdivision (a) of Section  
8 4512. Other than the circumstances described in this section,  
9 regional centers shall not establish facility rates for AFDC-FC  
10 purposes.

11 (g) (1) The department shall adopt emergency regulations in  
12 accordance with Chapter 3.5 (commencing with Section 11340)  
13 of Part 1 of Division 3 of Title 2 of the Government Code, and for  
14 the purposes of that chapter, including Section 11349.6 of the  
15 Government Code, on or before July 1, 2009.

16 (2) The adoption of regulations pursuant to paragraph (1) shall  
17 be deemed an emergency and necessary for the immediate  
18 preservation of the public peace, health, safety, and general welfare.  
19 The regulations authorized by this subdivision shall remain in  
20 effect for no more than 180 days, by which time final regulations  
21 shall be adopted.

22 (h) (1) The State Department of Social Services and the State  
23 Department of Developmental Services shall provide to the Joint  
24 legislative Budget Committee, on a semiannual basis, the data set  
25 forth in paragraph (2) to facilitate legislative review of the  
26 outcomes of the changes made by the addition of this section and  
27 the amendments made to Sections 4684 and 16121 by the act  
28 adding this section. The first report shall be submitted on October  
29 1, 2007, with subsequent reports submitted on March 1 and October  
30 1 of each year.

31 (2) The following data shall be provided pursuant to this  
32 subdivision:

33 (A) The number of, and services provided to, children who are  
34 consumers of regional center services and who are receiving AAP,  
35 Kin-GAP, or AFDC-FC, broken out by children receiving the  
36 amount pursuant to paragraph (1) of subdivision (c), the amount  
37 pursuant to paragraph (1) of subdivision (d), and the level of  
38 supplement pursuant to subparagraph (A) of paragraph (2) of  
39 subdivision (c).

1 (B) A comparison of services provided to these children and  
2 similar children who are regional center consumers who do not  
3 receive AFDC-FC, Kin-GAP, or AAP benefits, broken out by  
4 children receiving the amount pursuant to paragraph (1) of  
5 subdivision (c), the amount pursuant to paragraph (1) of subdivision  
6 (d), and the level of supplement pursuant to subparagraph (A) of  
7 paragraph (2) of subdivision (c).

8 (C) The number and nature of appeals filed regarding services  
9 provided or secured by regional centers for these children,  
10 consistent with Section 4714, broken out by children receiving the  
11 amount pursuant to paragraph (1) of subdivision (c), the amount  
12 pursuant to paragraph (1) of subdivision (d), and the level of  
13 supplement pursuant to subparagraph (A) of paragraph (2) of  
14 subdivision (c).

15 (D) The number of these children who are adopted before and  
16 after the act adding this section, broken out by children receiving  
17 the amount pursuant to paragraph (1) of subdivision (c), the amount  
18 pursuant to paragraph (1) of subdivision (d), and the level of  
19 supplement pursuant to subparagraph (A) of paragraph (2) of  
20 subdivision (c).

21 (E) The number and levels of supplements requested pursuant  
22 to subparagraph (B) of paragraph (2) of subdivision (c).

23 (F) The number of appeals requested of the decision by counties  
24 to deny the request for the supplement pursuant to subparagraph  
25 (A) of paragraph (2) of subdivision (c).

26 (G) The total number and levels of supplements authorized  
27 pursuant to subparagraph (A) of paragraph (2) of subdivision (c)  
28 and the number of these supplements authorized upon appeal.

29 (i) Commencing January 1, 2012, the rate described in  
30 subdivision (c) shall be paid for an eligible nonminor dependent  
31 who is under 21 years of age, is receiving AFDC-FC or Kin-GAP  
32 benefits pursuant to Section 11403, and is a consumer of regional  
33 center services.

34 SEC. 55. Section 11465 of the Welfare and Institutions Code  
35 is amended to read:

36 11465. (a) When a child is living with a parent who receives  
37 AFDC-FC or Kin-GAP benefits, the rate paid to the provider on  
38 behalf of the parent shall include an amount for care and  
39 supervision of the child.

(b) For each category of eligible licensed community care facility, as defined in Section 1502 of the Health and Safety Code, the department shall adopt regulations setting forth a uniform rate to cover the cost of care and supervision of the child in each category of eligible licensed community care facility.

(c) (1) On and after July 1, 1998, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be increased by 6 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate.

(2) (A) On and after July 1, 1999, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be adjusted by an amount equal to the California Necessities Index computed pursuant to Section 11453, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate, subject to further adjustment pursuant to subparagraph (B).

(B) In addition to the adjustment specified in subparagraph (A), on and after January 1, 2000, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate.

(3) Subject to the availability of funds, for the 2000–01 fiscal year and annually thereafter, these rates shall be adjusted for cost of living pursuant to procedures in Section 11453.

(4) On and after January 1, 2008, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be increased by 5 percent, rounded to the nearest dollar. The resulting amount shall constitute the new uniform rate.

(d) (1) Notwithstanding subdivisions (a) to (c), inclusive, the payment made pursuant to this section for care and supervision of a child who is living with a teen parent in a whole family foster home, as defined in Section 11400, shall equal the basic rate for children placed in a licensed or approved home as specified in subdivisions (a) to (d), inclusive, of Section 11461.

(2) The amount paid for care and supervision of a dependent infant living with a dependent teen parent receiving AFDC-FC benefits in a group home placement shall equal the infant supplement rate for group home placements.

(3) The caregiver shall provide the county child welfare agency or probation department with a copy of the shared responsibility plan developed pursuant to Section 16501.25 and shall advise the



1 county child welfare agency or probation department of any  
2 subsequent changes to the plan. Once the plan has been completed  
3 and provided to the appropriate agencies, the payment made  
4 pursuant to this section shall be increased by an additional two  
5 hundred dollars (\$200) per month to reflect the increased care and  
6 supervision while he or she is placed in the whole family foster  
7 home.

8 (4) In any year in which the payment provided pursuant to this  
9 section is adjusted for the cost of living as provided in paragraph  
10 (1) of subdivision (c), the payments provided for in this subdivision  
11 shall also be increased by the same procedures.

12 (5) A Kin-GAP relative who, immediately prior to entering the  
13 Kin-GAP program, was designated as a whole family foster home  
14 shall receive the same payment amounts for the care and  
15 supervision of a child who is living with a teen parent they received  
16 in foster care as a whole family foster home.

17 (6) On and after January 1, 2012, the rate paid for a child living  
18 with a teen parent in a whole family foster home as defined in  
19 Section 11400 shall also be paid for a child living with a nonminor  
20 dependent parent who is eligible to receive AFDC-FC or Kin-GAP  
21 pursuant to Section 11403.

22 SEC. 56. Section 11466.23 of the Welfare and Institutions  
23 Code is amended to read:

24 11466.23. (a) It is the intent of the Legislature to comply with  
25 the federal requirements of the Improper Payments Act of 2002  
26 with respect to the remittance of the federal share of foster care  
27 overpayments.

28 (b) For the purposes of this section, a federal foster care or  
29 adoption assistance overpayment is defined as any amount of aid  
30 paid to which a foster care provider or adoption assistance recipient  
31 was not entitled, including any overpayment identified by a foster  
32 care provider as described in Section 11400, or federal Adoption  
33 Assistance Program recipient as described in Chapter 2.1  
34 (commencing with Section 16115) of Part 4, and on and after the  
35 date that the director executes a declaration pursuant to Section  
36 11217, any federal Kin-GAP aid paid to which a related guardian  
37 was not entitled, including any overpayment identified by a federal  
38 Kin-GAP recipient as described in Article 4.7 (commencing with  
39 Section 11385).

1 (c) Counties shall be required to remit the appropriate amount  
2 of federal funds upon identification of the overpayment, following  
3 the completion of due process.

4 (1) Counties shall not be required to repay the overpayment  
5 when any of the following occurs:

6 (A) The amount is legally uncollectible, including any amount  
7 legally uncollectible pursuant to Section 11466.24.

8 (B) The cost of collection exceeds the overpayment.

9 (C) The foster family agency or group home is no longer in  
10 business or licensed by the department.

11 (2) Remittance of overpayments of federal AFDC-FC funds,  
12 federal Kin-GAP, and federal AAP funds not excluded by  
13 paragraph (1) shall be shared by the state and the counties based  
14 on a 40-percent state, 60-percent county sharing ratio. Upon actual  
15 collection of any overpayments from providers or recipients, the  
16 county shall ensure that the total amount reimbursed to the state  
17 reflects the federal and state share of the overpayment costs, as  
18 specified. All overpayments of federal AFDC-FC funds, federal  
19 Kin-GAP, and federal AAP funds included in paragraph (1) shall  
20 be repaid completely with state funds.

21 (3) Nothing in this section shall inhibit existing county authority  
22 to collect overpayments.

23 (4) Nothing in this section shall inhibit existing county  
24 responsibility to remit voluntary overpayments upon collection.

25 (d) (1) The department shall adopt regulations to implement  
26 this section by December 31, 2008. Notwithstanding Chapter 3.5  
27 (commencing with Section 11340) of Part 1 of Division 3 of Title  
28 2 of the Government Code, the department, in consultation and  
29 coordination with the County Welfare Directors Association, may  
30 adopt emergency regulations to implement this section.

31 (2) The adoption of emergency regulations pursuant to  
32 subdivision (a) shall be deemed to be an emergency and necessary  
33 for the immediate preservation of the public peace, health, safety,  
34 or general welfare. The emergency regulations authorized by this  
35 section shall be submitted to the Office of Administrative Law for  
36 filing with the Secretary of State and shall remain in effect for no  
37 more than 180 days, by which time final regulations shall be  
38 adopted.

39 (e) The department may only require counties to remit payment  
40 of the federal share for overpayments upon identification that occur

1 on or after the effective date of regulations adopted pursuant to  
2 this section.

3 SEC. 57. Section 11466.24 of the Welfare and Institutions  
4 Code is amended to read:

5 11466.24. (a) In accordance with this section, a county shall  
6 collect an overpayment, discovered on or after January 1, 1999,  
7 made to a foster family home, an approved home of a relative,  
8 including, on and after the date that the director executes a  
9 declaration pursuant to Section 11217, the home of a Kin-GAP  
10 guardian, an approved home of a nonrelative extended family  
11 member, or an approved home of a nonrelative legal guardian, or,  
12 on and after January 1, 2012, the supervised independent living  
13 setting where a nonminor dependent resides, for any period of time  
14 in which the foster child was not cared for in that home, unless  
15 any of the following conditions exist, in which case a county shall  
16 not collect the overpayment:

17 (1) The cost of the collection exceeds that amount of the  
18 overpayment that is likely to be recovered by the county. The cost  
19 of collecting the overpayment and the likelihood of collection shall  
20 be documented by the county. Costs that the county shall consider  
21 when determining the cost-effectiveness to collect are total  
22 administrative, personnel, legal filing fee, and investigative costs,  
23 and any other applicable costs.

24 (2) The child was temporarily removed from the home and  
25 payment was owed to the provider to maintain the child's  
26 placement, or the child was temporarily absent from the provider's  
27 home, or on runaway status and subsequently returned, and  
28 payment was made to the provider to meet the child's needs.

29 (3) The overpayment was exclusively the result of a county  
30 administrative error or both the county welfare department and  
31 the provider or nonminor dependent were unaware of the  
32 information that would establish that the foster child or nonminor  
33 dependent was not eligible for foster care benefits.

34 (4) The provider or nonminor dependent did not have knowledge  
35 of, and did not contribute to, the cause of the overpayment.

36 (b) (1) After notification by a county of an overpayment to a  
37 foster family home, an approved home of a relative, including the  
38 home of a Kin-GAP guardian, or a nonrelative extended family  
39 member, approved home of a nonrelative legal guardian, or the  
40 supervised independent living setting where the nonminor

1 dependent resides, and a demand letter for repayment, the foster  
2 parent, approved relative, approved nonrelative legal guardian, or  
3 nonminor dependent may request the county welfare department  
4 to review the overpayment determination in an informal hearing,  
5 or may file with the department a request for a hearing to appeal  
6 the overpayment determination. Requesting an informal hearing  
7 shall not preclude a payee from seeking a formal hearing at a later  
8 date. The county welfare department shall dismiss the overpayment  
9 repayment request if it determines the action to be incorrect through  
10 an initial review prior to a state hearing, or through a review in an  
11 informal hearing held at the request of the foster parent, relative,  
12 nonrelative legal guardian, or nonminor dependent.

13 (2) If an informal hearing does not result in the dismissal of the  
14 overpayment, or a formal appeal hearing is not requested, or on  
15 the 30th day following a formal appeal hearing decision, whichever  
16 is later, the foster family provider overpayment shall be sustained  
17 for collection purposes.

18 (3) The department shall adopt regulations that ensure that the  
19 best interests of the child or nonminor dependent shall be the  
20 primary concern of the county welfare director in any repayment  
21 agreement.

22 (c) (1) The department shall develop regulations for recovery  
23 of overpayments made to any foster family home, approved home  
24 of a relative, including the home of a Kin-GAP guardian, approved  
25 home of a nonrelative legal guardian, or supervised independent  
26 living setting where a nonminor dependent resides. The regulations  
27 shall prioritize collection methods, that shall include voluntary  
28 repayment agreement procedures and involuntary overpayment  
29 collection procedures. These procedures shall take into account  
30 the amount of the overpayment and a minimum required payment  
31 amount.

32 (2) A county shall not collect an overpayment through the use  
33 of an involuntary payment agreement unless a foster family home,  
34 an approved home of a relative, including the home of a Kin-GAP  
35 guardian, approved home of a nonrelative legal guardian, or  
36 supervised independent living setting where a nonminor dependent  
37 resides has rejected the offer of a voluntary overpayment  
38 agreement, or has failed to comply with the terms of the voluntary  
39 overpayment agreement.

1 (3) A county shall not be permitted to collect an overpayment  
2 through the offset of payments due to a foster family home, an  
3 approved home of a relative, including the home of a Kin-GAP  
4 guardian, approved home of a nonrelative legal guardian or  
5 supervised independent living setting where a nonminor dependent  
6 resides, unless this method of repayment is requested by the  
7 provider or nonminor dependent in a voluntary repayment  
8 agreement, or other circumstances defined by the department by  
9 regulation.

10 (d) If a provider or nonminor dependent is successful in its  
11 appeal of a collected overpayment, it shall be repaid the collected  
12 overpayment plus simple interest based on the Surplus Money  
13 Investment Fund.

14 (e) A county may not collect interest on the repayment of an  
15 overpayment.

16 (f) There shall be a one-year statute of limitations from the date  
17 upon which the county determined that there was an overpayment.

18 SEC. 57.3. Section 13754 of the Welfare and Institutions Code  
19 is amended to read:

20 13754. (a) It is the intent of the Legislature that nothing in this  
21 section shall be interpreted to preclude a nonminor dependent from  
22 accessing the same benefits, services, and supports, and exercise  
23 the same choices available to all nonminor dependents. It is further  
24 the intent of the Legislature that nonminor dependents who receive  
25 federal Supplemental Security Income benefits can serve as their  
26 own payee, if it is determined that the nonminor dependent satisfies  
27 the criteria established by the Social Security Administration, and  
28 should be assisted in receiving direct payment by the county child  
29 welfare department. It is further the intent of the Legislature that  
30 individuals who have had their eligibility for federal Supplemental  
31 Security Income benefits established pursuant to Section 13757  
32 be able to maintain that eligibility even when they remain in the  
33 state's care as a nonminor dependent. In order to facilitate this, it  
34 is the intent of the Legislature that the county child welfare agency  
35 ensure that the youth receives an SSI payment during at least one  
36 month of each 12-month period while the youth is a nonminor  
37 dependent. It is further the intent of the Legislature that the county  
38 child welfare agency may supplement the SSI payment that a youth  
39 receives during this one-month period with state-only AFDC-FC  
40 or state-only Kin-GAP benefits.

1 (b) (1) The county shall apply to be appointed representative  
2 payee on behalf of a child beneficiary in its custody when no other  
3 appropriate party is available to serve.

4 (2) When a child beneficiary reaches 18 years of age and elects  
5 to remain in the custody of the county as a nonminor dependent,  
6 the county shall provide information to the youth regarding the  
7 process for becoming his or her own payee and shall assist the  
8 youth in becoming his or her own payee pursuant to Section 13753,  
9 unless becoming his or her own payee is contrary to the best  
10 interests of the youth. In the event that a youth is unable to serve  
11 as his or her payee after attaining 18 years of age, the county shall  
12 assist the youth in finding and designating an appropriate  
13 representative payee.

14 (c) In its capacity as representative payee, the county shall do  
15 all of the following:

16 (1) Establish a no-cost, interest-bearing maintenance account  
17 for each child in the department's custody for whom the department  
18 serves as representative payee. Interest earned shall be credited to  
19 the account. The county shall keep an itemized current account,  
20 in the manner required by federal law, of all income and expense  
21 items for each child's maintenance account.

22 (2) Establish procedures for disbursing money from the  
23 accounts, including disbursing the net balance to the beneficiary  
24 upon release from care. The county shall use social security and  
25 SSI/SSP benefits only for the following purposes:

26 (A) For the use and benefit of the child.

27 (B) For purposes determined by the county to be in the child's  
28 best interest.

29 (3) Establish and maintain a dedicated account in a financial  
30 institution for past-due monthly benefits that exceed six times the  
31 maximum monthly benefit payable, in accordance with federal  
32 law. The representative payee may deposit into the account  
33 established under this section any other funds representing past  
34 due benefits to the eligible individual, provided that the amount  
35 of the past due benefits is equal to or exceeds the maximum  
36 monthly benefit payable. Funds from the dedicated account shall  
37 not be used for basic maintenance costs. The use of funds from  
38 the dedicated account must be for the benefit of the child and are  
39 limited to expenditures for the following purposes:

40 (A) Medical treatment.

- 1 (B) Education or job skills training.
- 2 (C) Personal needs assistance.
- 3 (D) Special equipment.
- 4 (E) Housing modification.
- 5 (F) Therapy or rehabilitation.
- 6 (G) Other items or services, deemed appropriate by the Social
- 7 Security Administration.

8 SEC. 57.5. Section 13757 of the Welfare and Institutions Code  
9 is amended to read:

10 13757. (a) (1) Subject to paragraph (2), every youth who is  
11 in foster care and nearing emancipation shall be screened by the  
12 county for potential eligibility for the federal Supplemental Security  
13 Income (SSI) program utilizing the best practice guidelines  
14 developed pursuant to Section 13752.

15 (2) The screening required in paragraph (1) shall only occur  
16 when the foster youth is at least 16 years and six months of age  
17 and not older than 17 years and six months of age. An application  
18 shall be submitted to the federal Social Security Administration  
19 on behalf of a youth who is screened as being likely to be eligible  
20 for federal Supplemental Security Income benefits. To the extent  
21 possible, the application shall be timed to allow for a determination  
22 of eligibility by the Social Security Administration prior to the  
23 youth's emancipation from care including, if appropriate, the  
24 suspension of Supplemental Security Income benefits for no more  
25 than 12 months.

26 (b) In carrying out the requirements of subdivision (a) for a  
27 youth receiving federally funded AFDC-FC benefits, the county  
28 shall, if necessary, forego federally funded AFDC-FC and instead  
29 use state AFDC-FC resources to fund the placement in the month  
30 of application or in the month after making an application, and to  
31 subsequently reclaim federally funded AFDC-FC, in order to  
32 ensure that the youth meets all of the SSI eligibility requirements  
33 in a single month while the application is pending, as provided by  
34 federal law and regulation. Notwithstanding subdivision (a) of  
35 Section 11402, this section shall apply to a foster youth regardless  
36 of his or her federal AFDC-FC eligibility.

37 (c) Prior to the implementation of subdivision (b), the State  
38 Department of Social Services shall obtain clarification from the  
39 Social Security Administration and the United States Department  
40 of Health and Human Services by January 1, 2008, that the funding

1 mechanism described in subdivision (b) is consistent with federal  
2 law and regulation.

3 (d) When a nonminor dependent has been approved for SSI  
4 payments pursuant to this section but is receiving an AFDC-FC  
5 or Kin-GAP benefit that includes federal financial participation in  
6 an amount that exceeds the SSI payment, causing the SSI payment  
7 to be placed in suspense, the county child welfare agency, during  
8 at least one month of every 12-month period, beginning with the  
9 date that the SSI benefit is placed in suspense, shall forego the  
10 federally funded AFDC-FC or Kin-GAP benefits and instead shall  
11 use state AFDC-FC or Kin-GAP resources to supplement the SSI  
12 benefit that the youth receives during that month. The county shall  
13 inform the Social Security Administration that the youth is not  
14 receiving any federal financial participation during that month in  
15 order to permit the nonminor dependent to receive an SSI benefit  
16 during a single month of every 12-month period. The county shall  
17 subsequently reclaim the federally funded AFDC-FC benefit or  
18 Kin-GAP benefit in the following month.

19 ~~SEC. 57.6. Section 15200 of the Welfare and Institutions Code~~  
20 ~~is amended to read:~~

21 ~~15200. There is hereby appropriated out of any money in the~~  
22 ~~State Treasury not otherwise appropriated, and after deducting~~  
23 ~~federal funds available, the following sums:~~

24 ~~(a) To each county for the support and maintenance of needy~~  
25 ~~children, 95 percent of the sums specified in subdivision (a), and~~  
26 ~~paragraphs (1) and (2) of subdivision (c), of Section 11450.~~

27 ~~(b) To each county for the support and maintenance of pregnant~~  
28 ~~mothers, 95 percent of the sum specified in subdivisions (b) and~~  
29 ~~(c) of Section 11450.~~

30 ~~(c) For the adequate care of each child pursuant to subdivision~~  
31 ~~(d) of Section 11450, as follows:~~

32 ~~(1) For any county that meets the performance standards or~~  
33 ~~outcome measures in Section 11215, an amount equal to 40 percent~~  
34 ~~of the sum necessary for the adequate care of each child.~~

35 ~~(2) For any county that does not meet the performance standards~~  
36 ~~or outcome measures in Section 11215, an amount which shall not~~  
37 ~~be less than 67.5 percent of one hundred twenty dollars (\$120);~~  
38 ~~and multiplied by the number of children receiving foster care in~~  
39 ~~the county, added to an additional twelve dollars and fifty cents~~  
40 ~~(\$12.50) a month per eligible child.~~



1     ~~(3) The department shall determine the percentage of state~~  
2 ~~reimbursement for those counties that fail to meet the requirements~~  
3 ~~of subparagraph (1) according to the regulations required by~~  
4 ~~subdivision (b) of Section 11215.~~

5     ~~(d) Notwithstanding subdivision (c), the amount of funds~~  
6 ~~appropriated from the General Fund in the annual Budget Act that~~  
7 ~~equates to the amount claimed under the Emergency Assistance~~  
8 ~~Program that has been included in the state's Temporary Assistance~~  
9 ~~for Needy Families block grant for foster care maintenance~~  
10 ~~payments shall be considered federal funds for the purposes of~~  
11 ~~calculating the county share of cost, provided the expenditure of~~  
12 ~~these funds contributes to the state meeting its federal maintenance~~  
13 ~~of effort requirements.~~

14     ~~(e) To each county for the support and care of hard-to-place~~  
15 ~~adoptive children, 75 percent of the nonfederal share of the amount~~  
16 ~~specified in Section 16121.~~

17     ~~(f) To each county for the support and care of former dependent~~  
18 ~~children who have been made wards of related guardians, an~~  
19 ~~amount equal to 50 percent of the Kin-GAP payment under Article~~  
20 ~~4.5 (commencing with Section 11360) of Chapter 2 minus the~~  
21 ~~federal TANF block grant contribution specified in Section 11364.~~  
22 ~~This subdivision shall become inoperative on July 1, 2006.~~

23     ~~(g) To each county for the support and care of former dependant~~  
24 ~~children who have been made wards of related guardians under~~  
25 ~~Article 4.5 (commencing with Section 11360), or Article 4.7~~  
26 ~~(commencing with Section 11385), of Chapter 2 of Part 3, 80~~  
27 ~~percent of the nonfederal share of the amounts as specified in~~  
28 ~~Sections 11364 and 11387.~~

29     ~~(h) The State Department of Social Services shall not implement~~  
30 ~~any change in the current funding ratios to counties as a~~  
31 ~~reimbursement for out-of-home care placement until the~~  
32 ~~development of a new performance standard system. The State~~  
33 ~~Department of Social Services shall notify the Department of~~  
34 ~~Finance when the new performance standard system is developed~~  
35 ~~and ready for implementation. The Department of Finance,~~  
36 ~~pursuant to the provisions of Section 28 of the Budget Act, shall~~  
37 ~~notify the Joint Legislative Budget Committee in writing of its~~  
38 ~~intent to implement a new performance standard that would impact~~  
39 ~~the counties' funding allocation. The notification shall include the~~  
40 ~~text of the draft regulations to implement the performance~~

standards. Any adjustment in the county funding allocation shall not be implemented sooner than 60 days after receipt and review of the new performance standard by the Joint Legislative Budget Committee and a review of the proposed changes by the Legislative Analyst.

(i) Federal funds received under Title XX of the federal Social Security Act (42 U.S.C. Sec. 1397 et seq.) and appropriated by the Legislature for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program shall be considered part of the state share of cost and not part of the federal expenditures for purposes of subdivision (e).

SEC. 58. Section 16120 of the Welfare and Institutions Code, as amended by Section 19 of Chapter 287 of the Statutes of 2009, is amended to read:

16120. A child shall be eligible for Adoption Assistance Program benefits if all of the conditions specified in subdivisions (a) to (l), inclusive, are met or if the conditions specified in subdivision (m) are met.

(a) It has been determined that the child cannot or should not be returned to the home of his or her parents as evidenced by a petition for termination of parental rights, a court order terminating parental rights, or a signed relinquishment, or, in the case of a tribal customary adoption, if the court has given full faith and credit to a tribal customary adoption order as provided for pursuant to paragraph (2) of subdivision (e) of Section 366.26.

(b) The child has at least one of the following characteristics that are barriers to his or her adoption:

(1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, three years of age or older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.

(2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional, or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability, as defined in subdivision (a) of

1 Section 4512, including those determined to require out-of-home  
2 nonmedical care, as described in Section 11464.

3 (c) The need for adoption subsidy is evidenced by an  
4 unsuccessful search for an adoptive home to take the child without  
5 financial assistance, as documented in the case file of the  
6 prospective adoptive child. The requirement for this search shall  
7 be waived when it would be against the best interest of the child  
8 because of the existence of significant emotional ties with  
9 prospective adoptive parents while in the care of these persons as  
10 a foster child.

11 (d) The child satisfies any of the following criteria:

12 (1) He or she is under 18 years of age.

13 (2) He or she is under 21 years of age and has a mental or  
14 physical handicap that warrants the continuation of assistance.

15 (3) Effective January 1, 2012, he or she is under 19 years of  
16 age, effective January 1, 2013, he or she is under 20 years of age,  
17 and effective January 1, 2014, he or she is under 21 years of age  
18 and attained 16 years of age before the adoption assistance  
19 agreement became effective, and one or more of the conditions  
20 specified in subdivision (b) of Section 11403.

21 (e) The adoptive family is responsible for the child pursuant to  
22 the terms of an adoptive placement agreement or a final decree of  
23 adoption and has signed an adoption assistance agreement.

24 (f) The adoptive family is legally responsible for the support of  
25 the child and the child is receiving support from the adoptive  
26 parent.

27 (g) The department or the county responsible for determining  
28 the child's Adoption Assistance Program eligibility status and for  
29 providing financial aid, and the prospective adoptive parent, prior  
30 to or at the time the adoption decree is issued by the court, have  
31 signed an adoption assistance agreement that stipulates the need  
32 for, and the amount of, Adoption Assistance Program benefits.

33 (h) The prospective adoptive parent or any adult living in the  
34 prospective adoptive home has completed the criminal background  
35 check requirements pursuant to Section 671(a)(20)(A) and (C) of  
36 Title 42 of the United States Code.

37 (i) To be eligible for state funding, the child is the subject of an  
38 agency adoption, as defined in Section 8506 of the Family Code  
39 and was any of the following:

1 (1) Under the supervision of a county welfare department as  
2 the subject of a legal guardianship or juvenile court dependency.

3 (2) Relinquished for adoption to a licensed California private  
4 or public adoption agency, or another public agency operating a  
5 Title IV-E program on behalf of the state, and would have  
6 otherwise been at risk of dependency as certified by the responsible  
7 public child welfare agency.

8 (3) Committed to the care of the department pursuant to Section  
9 8805 or 8918 of the Family Code.

10 (4) The child is an Indian child and the subject of an order of  
11 adoption based on tribal customary adoption of an Indian child,  
12 as described in Section 366.24. Notwithstanding Section 8600.5  
13 of the Family Code, for purposes of this subdivision a tribal  
14 customary adoption shall be considered an agency adoption.

15 (j) To be eligible for federal funding, in the case of a child who  
16 is not an applicable child for the federal fiscal year as defined in  
17 subdivision (n), the child satisfies any of the following criteria:

18 (1) Prior to the finalization of an agency adoption, as defined  
19 in Section 8506 of the Family Code, or an independent adoption,  
20 as defined in Section 8524 of the Family Code, is filed, the child  
21 has met the requirements to receive federal supplemental security  
22 income benefits pursuant to Subchapter 16 (commencing with  
23 Section 1381) of Chapter 7 of Title 42 of the United States Code,  
24 as determined and documented by the federal Social Security  
25 Administration.

26 (2) The child was removed from the home of a specified relative  
27 and the child would have been AFDC-eligible in the home of  
28 removal according to Section 606(a) or 607 of Title 42 of the  
29 United States Code, as those sections were in effect on July 16,  
30 1996, in the month of the voluntary placement agreement or in the  
31 month court proceedings are initiated to remove the child, resulting  
32 in a judicial determination that continuation in the home would be  
33 contrary to the child's welfare. The child must have been living  
34 with the specified relative from whom he or she was removed  
35 within six months of the month the voluntary placement agreement  
36 was signed or the petition to remove was filed.

37 (3) The child was voluntarily relinquished to a licensed public  
38 or private adoption agency, or another public agency operating a  
39 Title IV-E program on behalf of the state, and there is a petition  
40 to the court to remove the child from the home within six months

1 of the time the child lived with a specified relative and a subsequent  
2 judicial determination that remaining in the home would be  
3 contrary to the child's welfare.

4 (4) Title IV-E foster care maintenance was paid on behalf of  
5 the child's minor parent and covered the cost of the minor parent's  
6 child while the child was in the foster family home or child care  
7 institution with the minor parent.

8 (5) The child is an Indian child and the subject of an order of  
9 adoption based on tribal customary adoption of an Indian child,  
10 as described in Section 366.24.

11 (k) To be eligible for federal funding, in the case of a child who  
12 is an applicable child for the federal fiscal year, as defined in  
13 subdivision (n), the child meets any of the following criteria:

14 (1) At the time of initiation of adoptive proceedings was in the  
15 care of a public or licensed private child placement agency or  
16 Indian tribal organization pursuant to either of the following:

17 (A) An involuntary removal of the child from the home in  
18 accordance with a judicial determination to the effect that  
19 continuation in the home would be contrary to the welfare of the  
20 child.

21 (B) A voluntary placement agreement or a voluntary  
22 relinquishment.

23 (2) He or she meets all medical or disability requirements of  
24 Title XVI with respect to eligibility for supplemental security  
25 income benefits.

26 (3) He or she was residing in a foster family home or a child  
27 care institution with the child's minor parent, and the child's minor  
28 parent was in the foster family home or child care institution  
29 pursuant to either of the following:

30 (A) An involuntary removal of the child from the home in  
31 accordance with a judicial determination to the effect that  
32 continuation in the home would be contrary to the welfare of the  
33 child.

34 (B) A voluntary placement agreement or voluntary  
35 relinquishment.

36 (4) The child is an Indian child and the subject of an order of  
37 adoption based on tribal customary adoption of an Indian child,  
38 as described in Section 366.24.

39 (l) The child is a citizen of the United States or a qualified alien  
40 as defined in Section 1641 of Title 8 of the United States Code. If

1 the child is a qualified alien who entered the United States on or  
2 after August 22, 1996, and is placed with an unqualified alien, the  
3 child must meet the five-year residency requirement pursuant to  
4 Section 673(a)(2)(B) of Title 42 of the United States Code, unless  
5 the child is a member of one of the excepted groups pursuant to  
6 Section 1612(b) of Title 8 of the United States Code.

7 (m) A child shall be eligible for Adoption Assistance Program  
8 benefits if the following conditions are met:

9 (1) The child received Adoption Assistance Program benefits  
10 with respect to a prior adoption and the child is again available for  
11 adoption because the prior adoption was dissolved and the parental  
12 rights of the adoptive parents were terminated or because the  
13 child's adoptive parents died and the child meets the special needs  
14 criteria described in subdivisions (a) to (c), inclusive.

15 (2) To receive federal funding, the citizenship requirements in  
16 subdivision (l).

17 (n) (1) Except as provided in this subdivision, "applicable child"  
18 means a child for whom an adoption assistance agreement is  
19 entered into under this section during any federal fiscal year  
20 described in this subdivision if the child attained the applicable  
21 age for that federal fiscal year before the end of that federal fiscal  
22 year.

23 (A) For federal fiscal year 2010, the applicable age is 16 years.

24 (B) For federal fiscal year 2011, the applicable age is 14 years.

25 (C) For federal fiscal year 2012, the applicable age is 12 years.

26 (D) For federal fiscal year 2013, the applicable age is 10 years.

27 (E) For federal fiscal year 2014, the applicable age is eight years.

28 (F) For federal fiscal year 2015, the applicable age is six years.

29 (G) For federal fiscal year 2016, the applicable age is four years.

30 (H) For federal fiscal year 2017, the applicable age is two years.

31 (I) For federal fiscal year 2018 and thereafter, any age.

32 (2) Beginning with the 2010 federal fiscal year, the term  
33 "applicable child" shall include a child of any age on the date on  
34 which an adoption assistance agreement is entered into on behalf  
35 of the child under this section if the child meets both of the  
36 following criteria:

37 (A) He or she has been in foster care under the responsibility  
38 of the state for at least 60 consecutive months.

39 (B) He or she meets the requirements of subdivision (k).

1 (3) Beginning with the 2010 federal fiscal year, an applicable  
2 child shall include a child of any age on the date that an adoption  
3 assistance agreement is entered into on behalf of the child under  
4 this section, without regard to whether the child is described in  
5 paragraph (2), if the child meets all of the following criteria:

6 (A) He or she is a sibling of a child who is an applicable child  
7 for the federal fiscal year, under subdivision (n) or paragraph (2).

8 (B) He or she is to be placed in the same adoption placement  
9 as an “applicable child” for the federal fiscal year who is their  
10 sibling.

11 (C) He or she meets the requirements of subdivision (k).

12 (o) This section shall remain in effect only until January 1, 2014,  
13 and as of that date is repealed, unless a later enacted statute, that  
14 is enacted before January 1, 2014, deletes or extends that date.

15 SEC. 59. Section 16120 of the Welfare and Institutions Code,  
16 as added by Section 20 of Chapter 287 of the Statutes of 2009, is  
17 amended to read:

18 16120. A child shall be eligible for Adoption Assistance  
19 Program benefits if all of the conditions specified in subdivisions  
20 (a) to (l), inclusive, are met or if the conditions specified in  
21 subdivision (m) are met.

22 (a) It has been determined that the child cannot or should not  
23 be returned to the home of his or her parents as evidenced by a  
24 petition for termination of parental rights, a court order terminating  
25 parental rights, or a signed relinquishment.

26 (b) The child has at least one of the following characteristics  
27 that are barriers to his or her adoption:

28 (1) Adoptive placement without financial assistance is unlikely  
29 because of membership in a sibling group that should remain intact  
30 or by virtue of race, ethnicity, color, language, three years of age  
31 or older, or parental background of a medical or behavioral nature  
32 that can be determined to adversely affect the development of the  
33 child.

34 (2) Adoptive placement without financial assistance is unlikely  
35 because the child has a mental, physical, emotional, or medical  
36 disability that has been certified by a licensed professional  
37 competent to make an assessment and operating within the scope  
38 of his or her profession. This paragraph shall also apply to children  
39 with a developmental disability, as defined in subdivision (a) of

1 Section 4512, including those determined to require out-of-home  
2 nonmedical care, as described in Section 11464.

3 (c) The need for adoption subsidy is evidenced by an  
4 unsuccessful search for an adoptive home to take the child without  
5 financial assistance, as documented in the case file of the  
6 prospective adoptive child. The requirement for this search shall  
7 be waived when it would be against the best interest of the child  
8 because of the existence of significant emotional ties with  
9 prospective adoptive parents while in the care of these persons as  
10 a foster child.

11 (d) The child satisfies any of the following criteria:

12 (1) He or she is under 18 years of age.

13 (2) He or she is under 21 years of age and has a mental or  
14 physical handicap that warrants the continuation of assistance.

15 (3) Effective January 1, 2012, he or she is under 19 years of  
16 age, effective January 1, 2013, he or she is under 20 years of age,  
17 and effective January 1, 2014, he or she is under 21 years of age  
18 and attained 16 years of age before the adoption assistance  
19 agreement became effective, and one or more of the conditions  
20 specified in subdivision (b) of Section 11403.

21 (e) The adoptive family is responsible for the child pursuant to  
22 the terms of an adoptive placement agreement or a final decree of  
23 adoption and has signed an adoption assistance agreement.

24 (f) The adoptive family is legally responsible for the support of  
25 the child and the child is receiving support from the adoptive  
26 parent.

27 (g) The department or the county responsible for determining  
28 the child's Adoption Assistance Program eligibility status and for  
29 providing financial aid, and the prospective adoptive parent, prior  
30 to or at the time the adoption decree is issued by the court, have  
31 signed an adoption assistance agreement that stipulates the need  
32 for, and the amount of, Adoption Assistance Program benefits.

33 (h) The prospective adoptive parent or any adult living in the  
34 prospective adoptive home has completed the criminal background  
35 check requirements pursuant to Section 671(a)(20)(A) and (C) of  
36 Title 42 of the United States Code.

37 (i) To be eligible for state funding, the child is the subject of an  
38 agency adoption, as defined in Section 8506 of the Family Code  
39 and was any of the following:



1 (1) Under the supervision of a county welfare department as  
2 the subject of a legal guardianship or juvenile court dependency.

3 (2) Relinquished for adoption to a licensed California private  
4 or public adoption agency, or another public agency operating a  
5 Title IV-E program on behalf of the state, and would have  
6 otherwise been at risk of dependency as certified by the responsible  
7 public child welfare agency.

8 (3) Committed to the care of the department pursuant to Section  
9 8805 or 8918 of the Family Code.

10 (j) To be eligible for federal funding, in the case of a child who  
11 is not an applicable child for the federal fiscal year as defined in  
12 subdivision (n), the child satisfies any of the following criteria:

13 (1) Prior to the finalization of an agency adoption, as defined  
14 in Section 8506 of the Family Code, or an independent adoption,  
15 as defined in Section 8524 of the Family Code, is filed, the child  
16 has met the requirements to receive federal supplemental security  
17 income benefits pursuant to Subchapter 16 (commencing with  
18 Section 1381) of Chapter 7 of Title 42 of the United States Code,  
19 as determined and documented by the federal Social Security  
20 Administration.

21 (2) The child was removed from the home of a specified relative  
22 and the child would have been AFDC-eligible in the home of  
23 removal according to Section 606(a) or 607 of Title 42 of the  
24 United States Code, as those sections were in effect on July 16,  
25 1996, in the month of the voluntary placement agreement or in the  
26 month court proceedings are initiated to remove the child, resulting  
27 in a judicial determination that continuation in the home would be  
28 contrary to the child's welfare. The child must have been living  
29 with the specified relative from whom he or she was removed  
30 within six months of the month the voluntary placement agreement  
31 was signed or the petition to remove was filed.

32 (3) The child was voluntarily relinquished to a licensed public  
33 or private adoption agency, or another public agency operating a  
34 Title IV-E program on behalf of the state, and there is a petition  
35 to the court to remove the child from the home within six months  
36 of the time the child lived with a specified relative and a subsequent  
37 judicial determination that remaining in the home would be  
38 contrary to the child's welfare.

39 (4) Title IV-E foster care maintenance was paid on behalf of  
40 the child's minor parent and covered the cost of the minor parent's

1 child while the child was in the foster family home or child care  
2 institution with the minor parent.

3 (k) To be eligible for federal funding, in the case of a child who  
4 is an applicable child for the federal fiscal year, as defined in  
5 subdivision (n), the child meets any of the following criteria:

6 (1) At the time of initiation of adoptive proceedings was in the  
7 care of a public or licensed private child placement agency or  
8 Indian tribal organization pursuant to either of the following:

9 (A) An involuntary removal of the child from the home in  
10 accordance with a judicial determination to the effect that  
11 continuation in the home would be contrary to the welfare of the  
12 child.

13 (B) A voluntary placement agreement or a voluntary  
14 relinquishment.

15 (2) He or she meets all medical or disability requirements of  
16 Title XVI with respect to eligibility for supplemental security  
17 income benefits.

18 (3) He or she was residing in a foster family home or a child  
19 care institution with the child's minor parent, and the child's minor  
20 parent was in the foster family home or child care institution  
21 pursuant to either of the following:

22 (A) An involuntary removal of the child from the home in  
23 accordance with a judicial determination to the effect that  
24 continuation in the home would be contrary to the welfare of the  
25 child.

26 (B) A voluntary placement agreement or voluntary  
27 relinquishment.

28 (l) The child is a citizen of the United States or a qualified alien  
29 as defined in Section 1641 of Title 8 of the United States Code. If  
30 the child is a qualified alien who entered the United States on or  
31 after August 22, 1996, and is placed with an unqualified alien, the  
32 child must meet the five-year residency requirement pursuant to  
33 Section 673(a)(2)(B) of Title 42 of the United States Code, unless  
34 the child is a member of one of the excepted groups pursuant to  
35 Section 1612(b) of Title 8 of the United States Code.

36 (m) A child shall be eligible for Adoption Assistance Program  
37 benefits if the following conditions are met:

38 (1) The child received Adoption Assistance Program benefits  
39 with respect to a prior adoption and the child is again available for  
40 adoption because the prior adoption was dissolved and the parental

1 rights of the adoptive parents were terminated or because the  
2 child's adoptive parents died and the child meets the special needs  
3 criteria described in subdivisions (a) to (c), inclusive.

4 (2) To receive federal funding, the citizenship requirements in  
5 subdivision (l).

6 (n) (1) Except as provided in this subdivision, "applicable child"  
7 means a child for whom an adoption assistance agreement is  
8 entered into under this section during any federal fiscal year  
9 described in this subdivision if the child attained the applicable  
10 age for that federal fiscal year before the end of that federal fiscal  
11 year.

12 (A) For federal fiscal year 2010, the applicable age is 16 years.

13 (B) For federal fiscal year 2011, the applicable age is 14 years.

14 (C) For federal fiscal year 2012, the applicable age is 12 years.

15 (D) For federal fiscal year 2013, the applicable age is 10 years.

16 (E) For federal fiscal year 2014, the applicable age is eight years.

17 (F) For federal fiscal year 2015, the applicable age is six years.

18 (G) For federal fiscal year 2016, the applicable age is four years.

19 (H) For federal fiscal year 2017, the applicable age is two years.

20 (I) For federal fiscal year 2018 and thereafter, any age.

21 (2) Beginning with the 2010 federal fiscal year, the term  
22 "applicable child" shall include a child of any age on the date on  
23 which an adoption assistance agreement is entered into on behalf  
24 of the child under this section if the child meets both of the  
25 following criteria:

26 (A) He or she has been in foster care under the responsibility  
27 of the state for at least 60 consecutive months.

28 (B) He or she meets the requirements of subdivision (k).

29 (3) Beginning with the 2010 federal fiscal year, an applicable  
30 child shall include a child of any age on the date that an adoption  
31 assistance agreement is entered into on behalf of the child under  
32 this section, without regard to whether the child is described in  
33 paragraph (2), if the child meets all of the following criteria:

34 (A) He or she is a sibling of a child who is an applicable child  
35 for the federal fiscal year, under subdivision (n) or paragraph (2).

36 (B) He or she is to be placed in the same adoption placement  
37 as an applicable child for the federal fiscal year who is his or her  
38 sibling.

39 (C) He or she meets the requirements of subdivision (k).

40 (o) This section shall become operative on January 1, 2014.

1 SEC. 60. Section 16123 of the Welfare and Institutions Code  
2 is amended to read:

3 16123. The provisions of Section 16120, permitting the  
4 payment of adoption assistance until a child attains the age of 18  
5 or 21 if the child has mental or physical handicaps, or effective  
6 January 1, 2012, up to 21 years of age, if the child meets the criteria  
7 specified in paragraph (3) of subdivision (d) of Section 16120,  
8 shall be effective as long as federal funds are available under Title  
9 IV-E of the federal Social Security Act (Part E (commencing with  
10 Section 670) of Subchapter 4 of Chapter 7 of Title 42 of the United  
11 States Code), and the state continues to exercise its option to extend  
12 payments up to 21 years of age, pursuant to Section 473(a)(4) of  
13 the federal Social Security Act (42 U.S.C. Sec. 673(a)(4)). When  
14 those funds cease to be available, the maximum length for payment  
15 of the Adoption Assistance Program shall be five years except in  
16 instances in which there is a continuing need, related to a chronic  
17 health condition of the child which necessitated the initial financial  
18 assistance. In those cases, a parent may, until October 1, 1992,  
19 petition the department or licensed adoption agency to continue  
20 financial assistance up to age of majority. On and after October 1,  
21 1992, the parent may petition the department or the responsible  
22 county to continue financial assistance up to the age of majority.

23 SEC. 61. Section 16501 of the Welfare and Institutions Code  
24 is amended to read:

25 16501. (a) As used in this chapter, "child welfare services"  
26 means public social services which are directed toward the  
27 accomplishment of any or all of the following purposes: protecting  
28 and promoting the welfare of all children, including handicapped,  
29 homeless, dependent, or neglected children; preventing or  
30 remedying, or assisting in the solution of problems which may  
31 result in, the neglect, abuse, exploitation, or delinquency of  
32 children; preventing the unnecessary separation of children from  
33 their families by identifying family problems, assisting families  
34 in resolving their problems, and preventing breakup of the family  
35 where the prevention of child removal is desirable and possible;  
36 restoring to their families children who have been removed, by  
37 the provision of services to the child and the families; identifying  
38 children to be placed in suitable adoptive homes, in cases where  
39 restoration to the biological family is not possible or appropriate;  
40 and ensuring adequate care of children away from their homes, in

1 cases where the child cannot be returned home or cannot be placed  
2 for adoption.

3 “Child welfare services” also means services provided on behalf  
4 of children alleged to be the victims of child abuse, neglect, or  
5 exploitation. The child welfare services provided on behalf of each  
6 child represent a continuum of services, including emergency  
7 response services, family preservation services, family maintenance  
8 services, family reunification services, and permanent placement  
9 services, including transitional independent living services. The  
10 individual child’s case plan is the guiding principle in the provision  
11 of these services. The case plan shall be developed within a  
12 maximum of 60 days of the initial removal of the child or of the  
13 in-person response required under subdivision (f) if the child has  
14 not been removed from his or her home, or by the date of the  
15 dispositional hearing pursuant to Section 358, whichever comes  
16 first.

17 (1) Child welfare services may include, but are not limited to,  
18 a range of service-funded activities, including case management,  
19 counseling, emergency shelter care, emergency in-home caretakers,  
20 temporary in-home caretakers, respite care, therapeutic day  
21 services, teaching and demonstrating homemakers, parenting  
22 training, substance abuse testing, and transportation. These  
23 service-funded activities shall be available to children and their  
24 families in all phases of the child welfare program in accordance  
25 with the child’s case plan and departmental regulations. Funding  
26 for services is limited to the amount appropriated in the annual  
27 Budget Act and other available county funds.

28 (2) Service-funded activities to be provided may be determined  
29 by each county, based upon individual child and family needs as  
30 reflected in the service plan.

31 (3) As used in this chapter, “emergency shelter care” means  
32 emergency shelter provided to children who have been removed  
33 pursuant to Section 300 from their parent or parents or their  
34 guardian or guardians. The department may establish, by  
35 regulation, the time periods for which emergency shelter care shall  
36 be funded. For the purposes of this paragraph, “emergency shelter  
37 care” may include “transitional shelter care facilities” as defined  
38 in paragraph (11) of subdivision (a) of Section 1502 of the Health  
39 and Safety Code.

1 (b) As used in this chapter, “respite care” means temporary care  
2 for periods not to exceed 72 hours. This care may be provided to  
3 the child’s parents or guardians. This care shall not be limited by  
4 regulation to care over 24 hours. These services shall not be  
5 provided for the purpose of routine, ongoing child care.

6 (c) The county shall provide child welfare services as needed  
7 pursuant to an approved service plan and in accordance with  
8 regulations promulgated, in consultation with the counties, by the  
9 department. Counties may contract for service-funded activities  
10 as defined in paragraph (1) of subdivision (a). Each county shall  
11 use available private child welfare resources prior to developing  
12 new county-operated resources when the private child welfare  
13 resources are of at least equal quality and lesser or equal cost as  
14 compared with county-operated resources. Counties shall not  
15 contract for needs assessment, client eligibility determination, or  
16 any other activity as specified by regulations of the State  
17 Department of Social Services, except as specifically authorized  
18 in Section 16100.

19 (d) Nothing in this chapter shall be construed to affect duties  
20 which are delegated to probation officers pursuant to Sections 601  
21 and 654.

22 (e) Any county may utilize volunteer individuals to supplement  
23 professional child welfare services by providing ancillary support  
24 services in accordance with regulations adopted by the State  
25 Department of Social Services.

26 (f) As used in this chapter, emergency response services consist  
27 of a response system providing in-person response, 24 hours a day,  
28 seven days a week, to reports of abuse, neglect, or exploitation, as  
29 required by Article 2.5 (commencing with Section 11164) of  
30 Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of  
31 investigation pursuant to Section 11166 of the Penal Code and to  
32 determine the necessity for providing initial intake services and  
33 crisis intervention to maintain the child safely in his or her own  
34 home or to protect the safety of the child. County welfare  
35 departments shall respond to any report of imminent danger to a  
36 child immediately and all other reports within 10 calendar days.  
37 An in-person response is not required when the county welfare  
38 department, based upon an evaluation of risk, determines that an  
39 in-person response is not appropriate. This evaluation includes

1 collateral, contacts, a review of previous referrals, and other  
2 relevant information, as indicated.

3 (g) As used in this chapter, family maintenance services are  
4 activities designed to provide in-home protective services to  
5 prevent or remedy neglect, abuse, or exploitation, for the purposes  
6 of preventing separation of children from their families.

7 (h) As used in this chapter, family reunification services are  
8 activities designed to provide time-limited foster care services to  
9 prevent or remedy neglect, abuse, or exploitation, when the child  
10 cannot safely remain at home, and needs temporary foster care,  
11 while services are provided to reunite the family.

12 (i) As used in this chapter, permanent placement services are  
13 activities designed to provide an alternate permanent family  
14 structure for children who because of abuse, neglect, or exploitation  
15 cannot safely remain at home and who are unlikely to ever return  
16 home. These services shall be provided on behalf of children for  
17 whom there has been a judicial determination of a permanent plan  
18 for adoption, legal guardianship, or long-term foster care, and, as  
19 needed, shall include transitional independent living services.

20 (j) As used in this chapter, family preservation services include  
21 those services specified in Section 16500.5 to avoid or limit  
22 out-of-home placement of children, and may include those services  
23 specified in that section to place children in the least restrictive  
24 environment possible.

25 (k) (1) (A) In any county electing to implement this  
26 subdivision, all county welfare department employees who have  
27 frequent and routine contact with children shall, by February 1,  
28 1997, and all welfare department employees who are expected to  
29 have frequent and routine contact with children and who are hired  
30 on or after January 1, 1996, and all such employees whose duties  
31 change after January 1, 1996, to include frequent and routine  
32 contact with children, shall, if the employees provide services to  
33 children who are alleged victims of abuse, neglect, or exploitation,  
34 sign a declaration under penalty of perjury regarding any prior  
35 criminal conviction, and shall provide a set of fingerprints to the  
36 county welfare director.

37 (B) The county welfare director shall secure from the  
38 Department of Justice a criminal record to determine whether the  
39 employee has ever been convicted of a crime other than a minor

1 traffic violation. The Department of Justice shall deliver the  
2 criminal record to the county welfare director.

3 (C) If it is found that the employee has been convicted of a  
4 crime, other than a minor traffic violation, the county welfare  
5 director shall determine whether there is substantial and convincing  
6 evidence to support a reasonable belief that the employee is of  
7 good character so as to justify frequent and routine contact with  
8 children.

9 (D) No exemption shall be granted pursuant to subparagraph  
10 (C) if the person has been convicted of a sex offense against a  
11 minor, or has been convicted of an offense specified in Section  
12 220, 243.4, 264.1, 273d, 288, or 289 of the Penal Code, or in  
13 paragraph (1) of Section 273a of, or subdivision (a) or (b) of  
14 Section 368 of, the Penal Code, or has been convicted of an offense  
15 specified in subdivision (c) of Section 667.5 of the Penal Code.  
16 The county welfare director shall suspend such a person from any  
17 duties involving frequent and routine contact with children.

18 (E) Notwithstanding subparagraph (D), the county welfare  
19 director may grant an exemption if the employee or prospective  
20 employee, who was convicted of a crime against an individual  
21 specified in paragraph (1) or (7) of subdivision (c) of Section 667.5  
22 of the Penal Code, has been rehabilitated as provided in Section  
23 4852.03 of the Penal Code and has maintained the conduct required  
24 in Section 4852.05 of the Penal Code for at least 10 years and has  
25 the recommendation of the district attorney representing the  
26 employee's or prospective employee's county of residence, or if  
27 the employee or prospective employee has received a certificate  
28 of rehabilitation pursuant to Chapter 3.5 (commencing with Section  
29 4852.01) of Title 6 of Part 3 of the Penal Code. In that case, the  
30 county welfare director may give the employee or prospective  
31 employee an opportunity to explain the conviction and shall  
32 consider that explanation in the evaluation of the criminal  
33 conviction record.

34 (F) If no criminal record information has been recorded, the  
35 county welfare director shall cause a statement of that fact to be  
36 included in that person's personnel file.

37 (2) For purposes of this subdivision, a conviction means a plea  
38 or verdict of guilty or a conviction following a plea of nolo  
39 contendere. Any action which the county welfare director is  
40 permitted to take following the establishment of a conviction may



1 be taken when the time for appeal has elapsed, or the judgment of  
2 conviction has been affirmed on appeal or when an order granting  
3 probation is made suspending the imposition of sentence,  
4 notwithstanding a subsequent order pursuant to Sections 1203.4  
5 and 1203.4a of the Penal Code permitting the person to withdraw  
6 his or her plea of guilty and to enter a plea of not guilty, or setting  
7 aside the verdict of guilty, or dismissing the accusation,  
8 information, or indictment. For purposes of this subdivision, the  
9 record of a conviction, or a copy thereof certified by the clerk of  
10 the court or by a judge of the court in which the conviction  
11 occurred, shall be conclusive evidence of the conviction.

12 SEC. 62. Section 16501.1 of the Welfare and Institutions Code  
13 is amended to read:

14 16501.1. (a) (1) The Legislature finds and declares that the  
15 foundation and central unifying tool in child welfare services is  
16 the case plan.

17 (2) The Legislature further finds and declares that a case plan  
18 ensures that the child receives protection and safe and proper care  
19 and case management, and that services are provided to the child  
20 and parents or other caretakers, as appropriate, in order to improve  
21 conditions in the parent's home, to facilitate the safe return of the  
22 child to a safe home or the permanent placement of the child, and  
23 to address the needs of the child while in foster care.

24 (b) (1) A case plan shall be based upon the principles of this  
25 section and shall document that a preplacement assessment of the  
26 service needs of the child and family, and preplacement preventive  
27 services, have been provided, and that reasonable efforts to prevent  
28 out-of-home placement have been made.

29 (2) In determining the reasonable services to be offered or  
30 provided, the child's health and safety shall be the paramount  
31 concerns.

32 (3) (A) In determining the reasonable services to be offered or  
33 provided, the case plan shall include information, to the extent  
34 possible, about a parent's incarceration in a county jail or the state  
35 prison during the time that a minor child of that parent is involved  
36 in dependency care. Once a consistent data entry field or fields  
37 have been designated in the statewide child welfare database, social  
38 workers shall make reasonable efforts to collect and update  
39 necessary data regarding a child's incarcerated parent or parents.

(B) In order to further the goals of this paragraph, the Legislature encourages the State Department of Social Services to consult with the county welfare directors regarding the best way to incorporate the information specified in subparagraph (A) as a required field in the statewide database. The Legislature also encourages the Department of Justice, the Department of Corrections and Rehabilitation, county welfare departments, and county sheriffs to develop protocols for facilitating the exchange of information regarding the location and sentencing of the incarcerated parent or parents of a minor child who is in dependency care.

(C) Nothing in this paragraph shall be interpreted to require the department to create a new dedicated field in the statewide database for incorporating the information specified in subparagraph (A).

(4) Reasonable services shall be offered or provided to make it possible for a child to return to a safe home environment, unless, pursuant to subdivisions (b) and (e) of Section 361.5, the court determines that reunification services shall not be provided.

(5) If reasonable services are not ordered, or are terminated, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanent plan and to complete all steps necessary to finalize the permanent placement of the child.

(c) (1) If out-of-home placement is used to attain case plan goals, the decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive or most familylike and the most appropriate setting that is available and in close proximity to the parent's home, proximity to the child's school, consistent with the selection of the environment best suited to meet the child's special needs and best interests, or both. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to Section 7950 of the Family Code. On or after January 1, 2012, for a nonminor dependent, as defined in subdivision (v) of Section 11400, who is receiving AFDC-FC benefits up to 21 years of age pursuant to Section 11403, in addition to the above requirements, the selection of the placement, including a supervised independent living setting, as described in Section 11400, shall also be based upon the developmental needs of young adults by providing opportunities to have incremental responsibilities that prepare a nonminor dependent to transition to independent living. If admission to, or continuation in, a group

1 home placement is being considered for a nonminor dependent,  
2 the group home placement approval decision shall include a  
3 youth-driven, team-based case planning process, as defined by the  
4 department, in consultation with stakeholders. The case plan shall  
5 *consider the full range of placement options, and shall* specify  
6 why admission to, or continuation in, a group home placement is  
7 the best alternative available at the time to meet the special needs  
8 or well-being of the nonminor dependent, and how the placement  
9 will contribute to the nonminor dependent's transition to  
10 independent living. The case plan shall specify the treatment  
11 strategies that will be used to prepare the nonminor dependent for  
12 discharge to a less restrictive and more family-like setting,  
13 including a target date for discharge from the group home  
14 placement. The placement shall be reviewed and updated on a  
15 regular, periodic basis to ensure that continuation in the group  
16 home remains in the best interests of the nonminor dependent and  
17 that progress is being made in achieving case plan goals leading  
18 to independent living. The group home placement planning process  
19 shall begin as soon as it becomes clear to the county welfare  
20 department or probation office that a foster child in group home  
21 placement is likely to remain in group home placement on his or  
22 her 18th birthday, in order to expedite the transition to a less  
23 restrictive and more family-like setting if he or she becomes a  
24 nonminor dependent. *The case planning process shall include*  
25 *informing the youth of all of his or her options, including, but not*  
26 *limited to, admission to or continuation in a group home placement.*  
27 *Consideration for continuation of existing group home placement*  
28 *for a nonminor dependent under 19 years of age may include the*  
29 *need to stay in the same placement in order to complete high*  
30 *school. After a nonminor dependent either completes high school*  
31 *or attains his or her 19th birthday, whichever is earlier,*  
32 *continuation in or admission to a group home is prohibited unless*  
33 *the nonminor dependent satisfies the conditions of paragraph (5)*  
34 *of subdivision (b) of Section 11403, and group home placement*  
35 *functions as a short-term transition to the appropriate system of*  
36 *care.*

37 (2) In addition to the requirements of paragraph (1), and taking  
38 into account other statutory considerations regarding placement,  
39 the selection of the most appropriate home that will meet the child's  
40 special needs and best interests shall also promote educational

1 stability by taking into consideration proximity to the child's school  
2 attendance area.

3 (d) A written case plan shall be completed within a maximum  
4 of 60 days of the initial removal of the child or of the in-person  
5 response required under subdivision (f) of Section 16501 if the  
6 child has not been removed from his or her home, or by the date  
7 of the dispositional hearing pursuant to Section 358, whichever  
8 occurs first. The case plan shall be updated, as the service needs  
9 of the child and family dictate. At a minimum, the case plan shall  
10 be updated in conjunction with each status review hearing  
11 conducted pursuant to Section 366.21, and the hearing conducted  
12 pursuant to Section 366.26, but no less frequently than once every  
13 six months. Each updated case plan shall include a description of  
14 the services that have been provided to the child under the plan  
15 and an evaluation of the appropriateness and effectiveness of those  
16 services.

17 (1) It is the intent of the Legislature that extending the maximum  
18 time available for preparing a written case plan from 30 to 60 days  
19 will afford caseworkers time to actively engage families, and to  
20 solicit and integrate into the case plan the input of the child and  
21 the child's family, as well as the input of relatives and other  
22 interested parties.

23 (2) The extension of the maximum time available for preparing  
24 a written case plan from the 30 to 60 days shall be effective 90  
25 days after the date that the department gives counties written notice  
26 that necessary changes have been made to the Child Welfare  
27 Services Case Management System to account for the 60-day  
28 timeframe for preparing a written case plan.

29 (e) The child welfare services case plan shall be comprehensive  
30 enough to meet the juvenile court dependency proceedings  
31 requirements pursuant to Article 6 (commencing with Section 300)  
32 of Chapter 2 of Part 1 of Division 2.

33 (f) The case plan shall be developed as follows:

34 (1) The case plan shall be based upon an assessment of the  
35 circumstances that required child welfare services intervention.  
36 The child shall be involved in developing the case plan as age and  
37 developmentally appropriate.

38 (2) The case plan shall identify specific goals and the  
39 appropriateness of the planned services in meeting those goals.

1 (3) The case plan shall identify the original allegations of abuse  
2 or neglect, as defined in Article 2.5 (commencing with Section  
3 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the  
4 conditions cited as the basis for declaring the child a dependent of  
5 the court pursuant to Section 300, or all of these, and the other  
6 precipitating incidents that led to child welfare services  
7 intervention.

8 (4) The case plan shall include a description of the schedule of  
9 the social worker contacts with the child and the family or other  
10 caretakers. The frequency of these contacts shall be in accordance  
11 with regulations adopted by the State Department of Social  
12 Services. If the child has been placed in foster care out of state,  
13 the county social worker or a social worker on the staff of the  
14 social services agency in the state in which the child has been  
15 placed shall visit the child in a foster family home or the home of  
16 a relative, consistent with federal law and in accordance with the  
17 department's approved state plan. For children in out-of-state group  
18 home facilities, visits shall be conducted at least monthly, pursuant  
19 to Section 16516.5. At least once every six months, at the time of  
20 a regularly scheduled social worker contact with the foster child,  
21 the child's social worker shall inform the child of his or her rights  
22 as a foster child, as specified in Section 16001.9. The social worker  
23 shall provide the information to the child in a manner appropriate  
24 to the age or developmental level of the child.

25 (5) (A) When out-of-home services are used, the frequency of  
26 contact between the natural parents or legal guardians and the child  
27 shall be specified in the case plan. The frequency of those contacts  
28 shall reflect overall case goals, and consider other principles  
29 outlined in this section.

30 (B) Information regarding any court-ordered visitation between  
31 the child and the natural parents or legal guardians, and the terms  
32 and conditions needed to facilitate the visits while protecting the  
33 safety of the child, shall be provided to the child's out-of-home  
34 caregiver as soon as possible after the court order is made.

35 (6) When out-of-home placement is made, the case plan shall  
36 include provisions for the development and maintenance of sibling  
37 relationships as specified in subdivisions (b), (c), and (d) of Section  
38 16002. If appropriate, when siblings who are dependents of the  
39 juvenile court are not placed together, the social worker for each  
40 child, if different, shall communicate with each of the other social

workers and ensure that the child's siblings are informed of significant life events that occur within their extended family. Unless it has been determined that it is inappropriate in a particular case to keep siblings informed of significant life events that occur within the extended family, the social worker shall determine the appropriate means and setting for disclosure of this information to the child commensurate with the child's age and emotional well-being. These significant life events shall include, but shall not be limited to, the following:

(A) The death of an immediate relative.

(B) The birth of a sibling.

(C) Significant changes regarding a dependent child, unless the child objects to the sharing of the information with his or her siblings, including changes in placement, major medical or mental health diagnoses, treatments, or hospitalizations, arrests, and changes in the permanent plan.

(7) If out-of-home placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the child's parent or out of state, the case plan shall specify the reasons why that placement is in the best interest of the child. When an out-of-state group home placement is recommended or made, the case plan shall, in addition, specify compliance with Section 7911.1 of the Family Code.

(8) Effective January 1, 2010, a case plan shall ensure the educational stability of the child while in foster care and shall include both of the following:

(A) An assurance that the placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

(B) An assurance that the placement agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement, or, if remaining in that school is not in the best interests of the child, assurances by the placement agency and the local educational agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school.

(9) (A) If out-of-home services are used, or if parental rights have been terminated and the case plan is placement for adoption,

1 the case plan shall include a recommendation regarding the  
2 appropriateness of unsupervised visitation between the child and  
3 any of the child's siblings. This recommendation shall include a  
4 statement regarding the child's and the siblings' willingness to  
5 participate in unsupervised visitation. If the case plan includes a  
6 recommendation for unsupervised sibling visitation, the plan shall  
7 also note that information necessary to accomplish this visitation  
8 has been provided to the child or to the child's siblings.

9 (B) Information regarding the schedule and frequency of the  
10 visits between the child and siblings, as well as any court-ordered  
11 terms and conditions needed to facilitate the visits while protecting  
12 the safety of the child, shall be provided to the child's out-of-home  
13 caregiver as soon as possible after the court order is made.

14 (10) If out-of-home services are used and the goal is  
15 reunification, the case plan shall describe the services to be  
16 provided to assist in reunification and the services to be provided  
17 concurrently to achieve legal permanency if efforts to reunify fail.  
18 The plan shall also consider in-state and out-of-state placements,  
19 the importance of developing and maintaining sibling relationships  
20 pursuant to Section 16002, and the desire and willingness of the  
21 caregiver to provide legal permanency for the child if reunification  
22 is unsuccessful.

23 (11) If out-of-home services are used, the child has been in care  
24 for at least 12 months, and the goal is not adoptive placement, the  
25 case plan shall include documentation of the compelling reason  
26 or reasons why termination of parental rights is not in the child's  
27 best interest. A determination completed or updated within the  
28 past 12 months by the department when it is acting as an adoption  
29 agency or by a licensed adoption agency that it is unlikely that the  
30 child will be adopted, or that one of the conditions described in  
31 paragraph (1) of subdivision (c) of Section 366.26 applies, shall  
32 be deemed a compelling reason.

33 (12) (A) Parents and legal guardians shall have an opportunity  
34 to review the case plan, and to sign it whenever possible, and then  
35 shall receive a copy of the plan. In any voluntary service or  
36 placement agreement, the parents or legal guardians shall be  
37 required to review and sign the case plan. Whenever possible,  
38 parents and legal guardians shall participate in the development  
39 of the case plan. Commencing January 1, 2012, for nonminor  
40 dependents, as defined in subdivision (v) of Section 11400, who

1 are receiving AFDC-FC up to 21 years of age pursuant to Section  
2 11403, the case plan shall be developed with, and signed by, the  
3 nonminor.

4 (B) Parents and legal guardians shall be advised that, pursuant  
5 to Section 1228.1 of the Evidence Code, neither their signature on  
6 the child welfare services case plan nor their acceptance of any  
7 services prescribed in the child welfare services case plan shall  
8 constitute an admission of guilt or be used as evidence against the  
9 parent or legal guardian in a court of law. However, they shall also  
10 be advised that the parent's or guardian's failure to cooperate,  
11 except for good cause, in the provision of services specified in the  
12 child welfare services case plan may be used in any hearing held  
13 pursuant to Section 366.21 or 366.22 as evidence.

14 (13) A child shall be given a meaningful opportunity to  
15 participate in the development of the case plan and state his or her  
16 preference for foster care placement. A child who is 12 years of  
17 age or older and in a permanent placement shall also be given the  
18 opportunity to review the case plan, sign the case plan, and receive  
19 a copy of the case plan.

20 (14) The case plan shall be included in the court report and shall  
21 be considered by the court at the initial hearing and each review  
22 hearing. Modifications to the case plan made during the period  
23 between review hearings need not be approved by the court if the  
24 casework supervisor for that case determines that the modifications  
25 further the goals of the plan. If out-of-home services are used with  
26 the goal of family reunification, the case plan shall consider and  
27 describe the application of subdivision (b) of Section 11203.

28 (15) If the case plan has as its goal for the child a permanent  
29 plan of adoption or placement in another permanent home, it shall  
30 include a statement of the child's wishes regarding their permanent  
31 placement plan and an assessment of those stated wishes. The  
32 agency shall also include documentation of the steps the agency  
33 is taking to find an adoptive family or other permanent living  
34 arrangements for the child; to place the child with an adoptive  
35 family, an appropriate and willing relative, a legal guardian, or in  
36 another planned permanent living arrangement; and to finalize the  
37 adoption or legal guardianship. At a minimum, the documentation  
38 shall include child-specific recruitment efforts, such as the use of  
39 state, regional, and national adoption exchanges, including  
40 electronic exchange systems, when the child has been freed for



1 adoption. If the plan is for kinship guardianship, the case plan shall  
2 document how the child meets the kinship guardianship eligibility  
3 requirements.

4 (16) (A) When appropriate, for a child who is 16 years of age  
5 or older and, commencing January 1, 2012, for a nonminor  
6 dependent, the case plan shall include a written description of the  
7 programs and services that will help the child, consistent with the  
8 child's best interests, prepare for the transition from foster care to  
9 independent living, and whether the youth has an in-progress  
10 application pending for Title XVI Supplemental Security Income  
11 benefits or for Special Juvenile Immigration Status or other  
12 applicable application for legal residency and an active dependency  
13 case is required for that application. When appropriate, for a  
14 nonminor dependent, the case plan shall include a written  
15 description of the program and services that will help the nonminor  
16 dependent, consistent with his or her best interests, to prepare for  
17 transition from foster care and assist the youth in meeting the  
18 eligibility criteria set forth in Section 11403. If applicable, the case  
19 plan shall describe the individualized supervision provided in the  
20 supervised independent living setting as defined, in subdivision  
21 (w) of Section 11400. The case plan shall be developed with the  
22 child or nonminor dependent and individuals identified as important  
23 to the child or nonminor dependent, and shall include steps the  
24 agency is taking to ensure that the child or nonminor dependent  
25 achieves permanence, including maintaining or obtaining  
26 permanent connections to caring and committed adults.

27 (B) During the 90-day period prior to the participant attaining  
28 18 years of age or older as the state may elect under Section  
29 475(8)(B)(iii) (42 U.S.C. Sec. 675(8)(B)(iii)) of the federal Social  
30 Security Act, whether during that period foster care maintenance  
31 payments are being made on the child's behalf or the child is  
32 receiving benefits or services under Section 477 (42 U.S.C. Sec.  
33 677) of the federal Social Security Act, a caseworker or other  
34 appropriate agency staff or probation officer and other  
35 representatives of the participant, as appropriate, shall provide the  
36 youth or nonminor with assistance and support in developing the  
37 written 90-day transition plan, that is personalized at the direction  
38 of the child, information as detailed as the participant elects that  
39 shall include, but not be limited to, options regarding housing,  
40 health insurance, education, local opportunities for mentors and

1 continuing support services, and workforce supports and  
2 employment services.

3 (g) If the court finds, after considering the case plan, that  
4 unsupervised sibling visitation is appropriate and has been  
5 consented to, the court shall order that the child or the child's  
6 siblings, the child's current caregiver, and the child's prospective  
7 adoptive parents, if applicable, be provided with information  
8 necessary to accomplish this visitation. This section does not  
9 require or prohibit the social worker's facilitation, transportation,  
10 or supervision of visits between the child and his or her siblings.

11 (h) The case plan documentation on sibling placements required  
12 under this section shall not require modification of existing case  
13 plan forms until the Child Welfare Services Case Management  
14 System is implemented on a statewide basis.

15 (i) When a child who is 10 years of age or older and who has  
16 been in out-of-home placement for six months or longer, the case  
17 plan shall include an identification of individuals, other than the  
18 child's siblings, who are important to the child and actions  
19 necessary to maintain the child's relationship with those  
20 individuals, provided that those relationships are in the best interest  
21 of the child. The social worker shall ask every child who is 10  
22 years of age or older and who has been in out-of-home placement  
23 for six months or longer to identify individuals other than the  
24 child's siblings who are important to the child, and may ask any  
25 other child to provide that information, as appropriate. The social  
26 worker shall make efforts to identify other individuals who are  
27 important to the child, consistent with the child's best interests.

28 (j) The child's caregiver shall be provided a copy of a plan  
29 outlining the child's needs and services.

30 (k) On or before June 30, 2008, the department, in consultation  
31 with the County Welfare Directors Association and other  
32 advocates, shall develop a comprehensive plan to ensure that 90  
33 percent of foster children are visited by their caseworkers on a  
34 monthly basis by October 1, 2011, and that the majority of the  
35 visits occur in the residence of the child. The plan shall include  
36 any data reporting requirements necessary to comply with the  
37 provisions of the federal Child and Family Services Improvement  
38 Act of 2006 (Public Law 109-288).

39 (l) The implementation and operation of the amendments to  
40 subdivision (i) enacted at the 2005–06 Regular Session shall be

1 subject to appropriation through the budget process and by phase,  
2 as provided in Section 366.35.

3 SEC. 63. Section 16501.25 of the Welfare and Institutions  
4 Code is amended to read:

5 16501.25. (a) For the purposes of this section, “teen parent”  
6 means a child who has been adjudged to be a dependent child or  
7 ward of the court on the grounds that he or she is a person described  
8 under Section 300 or 602, or a ward of a nonrelated legal guardian  
9 whose guardianship was established pursuant to Section 360 or  
10 366.26, living in out-of-home placement in a whole family foster  
11 home, as defined in subdivision (u) of Section 11400, who is a  
12 parent. Commencing January 1, 2012, “teen parent” also means a  
13 nonminor dependent, as defined in subdivision (v) of Section  
14 11400, who is living in a whole family foster home, as defined in  
15 subdivision (t) of Section 11400, and is eligible for AFDC-FC or  
16 Kin-GAP payments pursuant to Section 11403.

17 (b) (1) When the child of a teen parent is not subject to the  
18 jurisdiction of the dependency court but is in the full or partial  
19 physical custody of the teen parent, a written shared responsibility  
20 plan shall be developed. The plan shall be developed between the  
21 teen parent, caregiver, and a representative of the county child  
22 welfare agency or probation department, and in the case of a  
23 certified home, a representative of the agency providing direct and  
24 immediate supervision to the caregiver. Additional input may be  
25 provided by any individuals identified by the teen parent, the other  
26 parent of the child, if appropriate, and other extended family  
27 members. The plan shall be developed as soon as is practicably  
28 possible. However, if one or more of the above stakeholders are  
29 not available to participate in the creation of the plan within the  
30 first 30 days of the teen parent’s placement, the teen parent and  
31 caregiver may enter into a plan for the purposes of fulfilling the  
32 requirements of paragraph (2) of subdivision (d) of Section 11465,  
33 which may be modified at a later time when the other individuals  
34 become available.

35 (2) The plan shall be designed to preserve and strengthen the  
36 teen parent family unit, as described in Section 16002.5, to assist  
37 the teen parent in meeting the goals outlined in Section 16002.5,  
38 to facilitate a supportive home environment for the teen parent and  
39 the child, and to ultimately enable the teen parent to independently  
40 provide a safe, stable, and permanent home for the child. The plan

1 shall in no way limit the teen parent's legal right to make decisions  
2 regarding the care, custody, and control of the child.

3 (3) The plan shall be written for the express purpose of aiding  
4 the teen parent and the caregiver to reach agreements aimed at  
5 reducing conflict and misunderstandings. The plan shall outline,  
6 with as much specificity as is practicable, the duties, rights, and  
7 responsibilities of both the teen parent and the caregiver with regard  
8 to the child, and identify supportive services to be offered to the  
9 teen parent by the caregiver or, in the case of a certified home, the  
10 agency providing direct and immediate supervision to the caregiver,  
11 or both. The plan shall be updated, as needed, to account for the  
12 changing needs of infants and toddlers, and in accordance with  
13 the teen parent's changing school, employment, or other outside  
14 responsibilities. The plan shall not conflict with the teen parent's  
15 case plan. Areas to be addressed by the plan include, but are not  
16 limited to, all of the following:

17 (A) Feeding.

18 (B) Clothing.

19 (C) Hygiene.

20 (D) Purchase of necessary items, including, but not limited to,  
21 safety items, food, clothing, and developmentally appropriate toys  
22 and books. This includes both one-time purchases and items needed  
23 on an ongoing basis.

24 (E) Health care.

25 (F) Transportation to health care appointments, child care, and  
26 school, as appropriate.

27 (G) Provision of child care and babysitting.

28 (H) Discipline.

29 (I) Sleeping arrangements.

30 (J) Visits among the child, his or her noncustodial parent, and  
31 other appropriate family members, including the responsibilities  
32 of the teen parent, the caregiver, and the foster family agency, as  
33 appropriate, for facilitating the visitation. The shared responsibility  
34 plan shall not conflict with the teen parent's case plan and any  
35 visitation orders made by the court.

36 (c) Upon completion of the shared responsibility plan and any  
37 subsequent updates to the plan, a copy shall be provided to the  
38 teen parent and his or her attorney, the caregiver, the county child  
39 welfare agency or probation department and, in the case of a

1 certified home, the agency providing direct and immediate  
2 supervision to the caregiver.

3 (d) The shared responsibility plan requirements shall no longer  
4 apply when the two hundred-dollar (\$200) monthly payment is  
5 made under the Kin-GAP program pursuant to Article 4.5  
6 (commencing with Section 11360) or Article 4.7 (commencing  
7 with Section 11385) of Chapter 2 of Part 3 to a former whole  
8 family foster home pursuant to subdivision (a) of Section 11465.

9 SEC. 64. Section 16503 of the Welfare and Institutions Code  
10 is amended to read:

11 16503. (a) Subsequent to completion of the hearing conducted  
12 pursuant to Section 366.26, the agency responsible for placement  
13 and care of a minor, or, on or after January 1, 2012, a nonminor  
14 dependent, as defined in subdivision (v) of Section 11400, shall  
15 ensure that a child in foster care shall receive administrative  
16 reviews periodically but no less frequently than once every six  
17 months. The administrative review shall determine the  
18 appropriateness of the placement, the continuing appropriateness  
19 and extent of compliance with the permanent plan for the child,  
20 the extent of compliance with the case plan, and adequacy of  
21 services provided to the child.

22 (b) The term “administrative review” means a review open to  
23 the participation of the parents of a child in foster care conducted  
24 by a panel of appropriate persons at least one of whom is not  
25 responsible for the case management of, or the delivery of services  
26 to, either the child or the parents who are the subject of the review.  
27 On and after January 1, 2012, administrative reviews held for  
28 nonminor dependents shall be conducted pursuant to subdivision  
29 (b) of Section 295 and subdivision (m) of Section 366.3.

30 (c) The department shall develop and implement regulations  
31 establishing processes, procedures, and standards for the conduct  
32 of administrative reviews that conform to Section 675.6 of Title  
33 42 of the United States Code.

34 (d) The requirements of this section shall not be interpreted as  
35 requiring duplicate concurrent court and administrative reviews.

36 SEC. 64.5. Section 16504.5 of the Welfare and Institutions  
37 Code is amended to read:

38 16504.5. (a) (1) Notwithstanding any other provision of law,  
39 pursuant to subdivision (b) of Section 11105 of the Penal Code, a  
40 child welfare agency may secure from an appropriate governmental

1 criminal justice agency the state summary criminal history  
2 information, as defined in subdivision (a) of Section 11105 of the  
3 Penal Code, through the California Law Enforcement  
4 Telecommunications System pursuant to subdivision (d) of Section  
5 309, and subdivision (a) of Section 1522 of the Health and Safety  
6 Code for the following purposes:

7 (A) To conduct an investigation pursuant to Section 11166.3 of  
8 the Penal Code or an investigation involving a child in which the  
9 child is alleged to come within the jurisdiction of the juvenile court  
10 under Section 300.

11 (B) (i) To assess the appropriateness and safety of placing a  
12 child who has been detained or is a dependent of the court, in the  
13 home of a relative assessed pursuant to Section 309 or 361.4, or  
14 in the home of a nonrelative extended family member assessed as  
15 described in Section 362.7 during an emergency situation.

16 (ii) When a relative or nonrelative family member who has been  
17 assessed pursuant to clause (i) and approved as a caregiver moves  
18 to a different county and continued placement of the child with  
19 that person is intended, the move shall be considered an emergency  
20 situation for purposes of this subparagraph.

21 (C) To attempt to locate a parent or guardian pursuant to Section  
22 311 of a child who is the subject of dependency court proceedings.

23 (D) To obtain information about the background of a nonminor  
24 who has petitioned to reenter foster care under subdivision (e) of  
25 Section 388, in order to assess the appropriateness and safety of  
26 placing the nonminor in a foster care or other placement setting  
27 with minor dependent children.

28 (2) Any time that a child welfare agency initiates a criminal  
29 background check through the California Law Enforcement  
30 Telecommunications System for the purpose described in  
31 subparagraph (B) of paragraph (1), the agency shall ensure that a  
32 state-level fingerprint check is initiated within 10 calendar days  
33 of the check, unless the whereabouts of the subject of the check  
34 are unknown or the subject of the check refuses to submit to the  
35 fingerprint check. The Department of Justice shall provide the  
36 requesting agency a copy of all criminal history information  
37 regarding an individual that it maintains pursuant to subdivision  
38 (b) of Section 11105 of the Penal Code.

39 (b) Criminal justice personnel shall cooperate with requests for  
40 criminal history information authorized pursuant to this section

1 and shall provide the information to the requesting entity in a  
2 timely manner.

3 (c) Any law enforcement officer or person authorized by this  
4 section to receive the information who obtains the information in  
5 the record and knowingly provides the information to a person not  
6 authorized by law to receive the information is guilty of a  
7 misdemeanor as specified in Section 11142 of the Penal Code.

8 (d) Information obtained pursuant to this section shall not be  
9 used for any purposes other than those described in subdivision  
10 (a).

11 (e) Nothing in this section shall preclude a nonminor petitioning  
12 to reenter foster care or a relative or other person living in a  
13 relative's home from refuting any of the information obtained by  
14 law enforcement if the individual believes the state- or federal-level  
15 criminal records check revealed erroneous information.

16 (f) (1) A state or county welfare agency may submit to the  
17 Department of Justice fingerprint images and related information  
18 required by the Department of Justice of parents or legal guardians  
19 when determining their suitability for reunification with a  
20 dependent child subject to the jurisdiction of the juvenile court,  
21 for the purposes of obtaining information as to the existence and  
22 content of a record of state or federal convictions and state or  
23 federal arrests, as well as information as to the existence and  
24 content of a record of state or federal arrests for which the  
25 Department of Justice establishes that the person is free on bail or  
26 on his or her own recognizance pending trial or appeal. Of the  
27 information received by the Department of Justice pursuant to this  
28 subdivision, only the parent's or legal guardian's criminal history  
29 for the time period following the removal of the child from the  
30 parent or legal guardian shall be considered.

31 (2) A county welfare agency or county probation office may  
32 submit to the Department of Justice fingerprint images and related  
33 information required by the Department of Justice of nonminors  
34 petitioning to reenter foster care under Section 388, in order to  
35 assess the appropriateness and safety of placing the nonminor in  
36 a foster care or other placement setting with minor dependent  
37 children.

38 (3) When received, the Department of Justice shall forward to  
39 the Federal Bureau of Investigation requests for federal summary  
40 criminal history information received pursuant to this subdivision.

1 The Department of Justice shall review the information returned  
2 from the Federal Bureau of Investigation and respond to the state  
3 or county welfare agency.

4 (4) The Department of Justice shall provide a response to the  
5 state or county welfare agency pursuant to subdivision (p) of  
6 Section 11105 of the Penal Code.

7 (5) The state or county welfare agency shall not request from  
8 the Department of Justice subsequent arrest notification service,  
9 as provided pursuant to Section 11105.2 of the Penal Code, for  
10 individuals described in this subdivision.

11 (6) The Department of Justice shall charge a fee sufficient to  
12 cover the costs of processing the request described in this  
13 subdivision.

14 (7) This subdivision shall become operative on July 1, 2007.

15 (g) A fee, determined by the Federal Bureau of Investigation  
16 and collected by the Department of Justice, shall be charged for  
17 each federal-level criminal offender record information request  
18 submitted pursuant to this section and Section 361.4.

19 SEC. 65. Section 16507.3 of the Welfare and Institutions Code  
20 is amended to read:

21 16507.3. (a) Beginning on October 1, 1982, child welfare  
22 services for children placed voluntarily after January 1, 1982, shall  
23 be limited to a period not to exceed 180 days. Subject to the  
24 availability of federal funding, voluntary placement services for  
25 federally eligible children may be extended for an additional six  
26 months, for a total period not to exceed 12 months for either of  
27 the following:

28 (1) Families who have a custodial parent or guardian in  
29 residential substance abuse treatment who is demonstrating  
30 progress that indicates the problems warranting the initial  
31 placement are likely to be resolved within the extended time period.

32 (2) Families whose minor child is seriously emotionally  
33 disturbed, who requires placement in a residential treatment facility,  
34 who otherwise would be likely to be found to fit the description  
35 in subdivision (c) of Section 300, and who reasonably may be  
36 expected to be returned home within the extended time period.

37 (b) Whenever a seriously emotionally disturbed child as  
38 described in paragraph (2) of subdivision (a) is initially voluntarily  
39 placed, the initial placement shall be made pursuant to the approval



1 of an interagency administrative review board as described in  
2 paragraph (4) of subdivision (a) of Section 16507.6.

3 (c) The extension of voluntary placement services for an  
4 additional six months shall be subject to the approval of an  
5 administrative review board pursuant to paragraphs (4) and (5) of  
6 subdivision (a) of Section 16507.6. The extension of voluntary  
7 placement services is contingent upon the receipt of federal  
8 funding. Any administrative and foster care costs that exceed the  
9 amount of federal reimbursement shall be paid solely with county  
10 funds.

11 (d) An otherwise eligible child placed voluntarily prior to  
12 January 1, 1982, may remain eligible for child welfare services  
13 without regard to the length of time in placement until April 1,  
14 1984. Beginning on October 1, 1982, such a child shall receive  
15 administrative review pursuant to the requirements of Section  
16 16503.

17 SEC. 66. Section 16507.4 of the Welfare and Institutions Code  
18 is amended to read:

19 16507.4. (a) Notwithstanding any other provisions of this  
20 chapter, voluntary family reunification services shall be provided  
21 without fee to families who qualify, or would qualify if application  
22 had been made therefor, as recipients of public assistance under  
23 the Aid to Families with Dependent Children program as described  
24 in the State Plan in effect on July 1, 1996. If the family is not  
25 qualified for aid, voluntary family reunification services may be  
26 utilized, provided that the county seeks reimbursement from the  
27 parent or guardian on a statewide sliding scale according to income  
28 as determined by the State Department of Social Services and  
29 approved by the Department of Finance. The fee may be waived  
30 if the social worker determines that the payment of the fee may  
31 be a barrier to reunification. Section 17552 of the Family Code  
32 shall also apply.

33 (b) An out-of-home placement of a minor without adjudication  
34 by the juvenile court may occur only when all of the following  
35 conditions exist:

36 (1) There is a mutual decision between the child's parent or  
37 guardian and the county welfare department in accordance with  
38 regulations promulgated by the State Department of Social  
39 Services.

(2) There is a written agreement between the county welfare department and the parent or guardian specifying the terms of the voluntary placement. The State Department of Social Services shall develop a form for voluntary placement agreements which shall be used by all counties. The form shall indicate that foster care under the Aid to Families with Dependent Children program is available to those children.

(3) In the case of an Indian child, in accordance with Section 1913 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), the following criteria are met:

(A) The parent or Indian custodian's consent to the voluntary out-of-home placement is executed in writing at least 10 days after the child's birth and recorded before a judge.

(B) The judge certifies that the terms and consequences of the consent were fully explained in detail in English and were fully understood by the parent or that they were interpreted into a language that the parent understood.

(C) A parent of an Indian child may withdraw his or her consent for any reason at any time and the child shall be returned to the parent.

(c) In the case of a voluntary placement pending relinquishment, a county welfare department shall have the option of delegating to a licensed private adoption agency the responsibility for placement by the county welfare department. If such a delegation occurs, the voluntary placement agreement shall be signed by the county welfare department, the child's parent or guardian, and the licensed private adoption agency.

(d) The State Department of Social Services shall amend its plan pursuant to Part E (commencing with Section 670) of Subchapter IV of Chapter 7 of Title 42 of the United States Code in order to conform to mandates of Public Law 96-272 and Public Law 110-351 for federal financial participation in voluntary placements.

SEC. 67. Section 16507.6 of the Welfare and Institutions Code is amended to read:

16507.6. If a minor has been voluntarily placed with the county welfare department subsequent to January 1, 1982, for out-of-home placement by his or her parents or guardians pursuant to this chapter and the minor has remained out of their physical custody

1 for a consecutive period not to exceed 180 days, the department  
2 shall do one of the following:

3 (a) Return the minor to the physical custody of his or her parents  
4 or guardians.

5 (b) Refer the minor to a licensed adoption agency for  
6 consideration of adoptive planning and receipt of a permanent  
7 relinquishment of care and custody rights from the parents pursuant  
8 to Section 8700 of the Family Code.

9 (c) Apply for a petition pursuant to Section 332 and file the  
10 petition with the juvenile court to have the minor declared a  
11 dependent child of the court under Section 300, in that return to  
12 the parental home would be contrary to the best interests of the  
13 child.

14 (d) Refer the minor placed pursuant to paragraph (2) of  
15 subdivision (a) of Section 16507.3 to an interagency administrative  
16 review board as may be required in federal regulations. One  
17 member of the board shall be a licensed mental health practitioner.  
18 The review board shall review the appropriateness and continued  
19 necessity of six additional months of voluntary placement, the  
20 extent of the compliance with the voluntary placement plan, and  
21 the adequacy of services to the family and child. If the minor  
22 cannot be returned home by the 12th month of voluntary placement  
23 services, the department shall proceed pursuant to subdivision (b)  
24 or (c).

25 (e) Refer the minor placed pursuant to paragraph (1) of  
26 subdivision (a) of Section 16507.3 to an administrative review  
27 board as may be required in federal regulations and as described  
28 in subdivision (b) of Section 16503. If the minor cannot be returned  
29 home by the 12th month of voluntary placement services, the  
30 department shall proceed as described in paragraph subdivisions  
31 (b), (c), or (d).

32 SEC. 68. Section 16508 of the Welfare and Institutions Code,  
33 as amended by Section 21 of Chapter 287 of the Statutes of 2009,  
34 is amended to read:

35 16508. Permanent placement services shall be provided or  
36 arranged for by county welfare department staff for children who  
37 cannot safely live with their parents and are not likely to return to  
38 their own homes. Permanent placement services shall be available  
39 without regard to income to the following children:

1 (a) Children judged dependent under Section 300 where a review  
2 has determined that reunification, adoption, tribal customary  
3 adoption, or guardianship is inappropriate.

4 (b) Recipients of public assistance under the nonfederally funded  
5 Aid to Families with Dependent Children Foster Care program  
6 who are wards of a legal guardian pursuant to Section 11405, where  
7 a review has determined that reunification or adoption is  
8 inappropriate.

9 (c) On and after January 1, 2012, nonminor dependents, as  
10 defined in subdivision (v) of Section 11400, who are receiving  
11 AFDC-FC pursuant to Section 11403.

12 (d) This section shall remain in effect only until January 1, 2014,  
13 and as of that date is repealed, unless a later enacted statute, that  
14 is enacted before January 1, 2014, deletes or extends that date.

15 SEC. 69. Section 16508 of the Welfare and Institutions Code,  
16 as added by Section 22 of Chapter 287 of the Statutes of 2009, is  
17 amended to read:

18 16508. Permanent placement services shall be provided or  
19 arranged for by county welfare department staff for children who  
20 cannot safely live with their parents and are not likely to return to  
21 their own homes. Permanent placement services shall be available  
22 without regard to income to the following children:

23 (a) Children judged dependent under Section 300 where a review  
24 has determined that reunification, adoption, or guardianship is  
25 inappropriate.

26 (b) Recipients of public assistance under the nonfederally funded  
27 Aid to Families with Dependent Children Foster Care program  
28 who are wards of a legal guardian pursuant to Section 11405, where  
29 a review has determined that reunification or adoption is  
30 inappropriate.

31 (c) On and after January 1, 2012, nonminor dependents, as  
32 defined in subdivision (v) of Section 11400, who are receiving  
33 AFDC-FC pursuant to Section 11403.

34 (d) This section shall become operative on January 1, 2014.

35 SEC. 70. No appropriation pursuant to Section 15200 of the  
36 Welfare and Institutions Code shall be made for the purpose of  
37 implementing this act.

38 SEC. 71. No reimbursement is required by this act pursuant to  
39 Section 6 of Article XIII B of the California Constitution for certain  
40 costs that may be incurred by a local agency or school district

1 because, in that regard, this act creates a new crime or infraction,  
2 eliminates a crime or infraction, or changes the penalty for a crime  
3 or infraction, within the meaning of Section 17556 of the  
4 Government Code, or changes the definition of a crime within the  
5 meaning of Section 6 of Article XIII B of the California  
6 Constitution.

7 However, if the Commission on State Mandates determines that  
8 this act contains other costs mandated by the state, reimbursement  
9 to local agencies and school districts for those costs shall be made  
10 pursuant to Part 7 (commencing with Section 17500) of Division  
11 4 of Title 2 of the Government Code.

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